



SCOTTISH EXECUTIVE
Development Department

PLANNING

Removing the Special Protection of Prime Quality Agricultural Land from Development

October 2002

Conclusions and Next Steps

REMOVING THE SPECIAL PROTECTION OF PRIME QUALITY AGRICULTURAL LAND FROM DEVELOPMENT

ANALYSIS OF RESPONSES TO CONSULTATION, CONCLUSIONS AND NEXT STEPS

INTRODUCTION

On 26 September 2001 the Scottish Executive issued a consultation paper on removing the special protection of prime quality agricultural land from development.

The consultation period closed on 17 December, although a few responses received after this date have been included in this analysis. Around 1000 copies of the consultation paper were distributed to all local authorities in Scotland, a wide range of public bodies, industry, business, professional, and farming interests, plus a number of other groups and individuals. Further copies were distributed on request and the document was also made available on the Scottish Executive's website.

This report presents the findings of the consultation exercise, the major issues raised, the Executive's conclusions and the next steps. A list of respondents is provided at Annex A. This report, and a detailed digest of individual responses, can be found on the Executive's website at www.scotland.gov.uk/planning.

The Executive wishes to thank all those who responded to this consultation paper.

OVERVIEW

We received 91 responses to the consultation paper, 87 of them offering comments on the proposals. Of the total responses, 59 were written contributions and 32 received by e-mail, all of which have been analysed by the Executive.

Responses were submitted by a wide range of interested parties and can be broken down into the following categories:

Category	Number of Responses
Local Authorities	25
Private companies/Businesses	10
Professional bodies	11
Community Groups	6
Environmental Bodies/Interests	6
Farming/Agricultural Bodies	3
Public Bodies	5
Landowners/Managers	4
Planning Consultants	3
Social/Cultural bodies/Interests	4
Academics	2
Individuals	9
Other	3
Total	91

One respondent asked for their contribution to remain confidential. Copies of all other responses are available for public inspection at the Scottish Executive Library, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD. An appointment can be made by contacting Alan Gold on 0131 244 4552.

There were two questions in the consultation paper and a broad summary of the conclusions on each is reported below.

RESPONSES

Q1. Should the Executive remove the national protection it gives under the planning system to prime quality agricultural land?

Of the total number of 91 responses received to the consultation paper, only 85 expressly answered Question 1. A total of 58 respondents (68% of the respondents to Question 1) said that the national protection afforded to prime quality agricultural land should **not** be removed. 25 respondents (29% of the respondents to Question 1) welcomed the proposal and agreed that the special protection should be removed. The remaining 2 respondents were undecided (2 % of respondents to Question 1).

The main supporters of the proposal to remove the national protection of prime quality agricultural land were private companies/businesses and planning consultants. Of the 13 responses from these groups, 12 supported the proposal.

Environmental bodies, community groups, professional bodies and most of the planning authorities were against the proposal. Of the 24 local authorities who offered comments on the consultation paper, 19 were against the removal of the national protection of prime quality agricultural land.

The Scottish Landowners' Federation was not unanimous in its view. It had reservations about the proposal, but it could accept the removal of the special protection so long as the "presumption against" development was maintained. The Scottish Crofting Foundation was firmly against the proposal whilst NFU Scotland gave a qualified 'yes' in response to question 1.

Q2. Would the removal of the national protection for prime quality agricultural land seriously affect the Executive's objective of sustainable development? If so, how?

Of the total number of 91 responses received, 73 expressly answered Question 2.

A total of 50 respondents (68.5% of the respondents to Question 2) said the Executive's objective of sustainable development would be seriously affected if national protection was removed from prime quality agricultural land. A total of 23 respondents (31.5% of the respondents to Question 2) did not consider that the proposal was contrary to sustainable development objectives.

MAIN THEMES

The nature of respondents was very diverse, leading to a broad spectrum of views on the proposal in the consultation paper. The key issues highlighted are listed below.

Benefits of Current System

A large number of respondents were in favour of retaining the status quo. It was argued that the current position does permit development of prime land where economic or social benefits outweigh environmental conservation. Respondents mentioned that the position (as set out in Circular 18/1987 and amended by Circular 25/1994) is sustainable and works well. Respondents also believed that the protection of prime quality land has supported the green belt strategy.

It was also pointed out that the current notification procedure does offer a degree of flexibility. Planning Authorities need to notify the Executive of only those development proposals involving more than 10 hectares of prime land, where the development would be contrary to the Local Plan and an officer of the Scottish Executive has advised against granting permission.

A further benefit of the current system of having national protection of prime quality land from development is that it exercised consistently throughout the country. The fact the protection is at national level gives weight to the importance of prime quality land as a national resource.

Benefits of Proposals

There was some support for allowing decision making at a local level where possible. It was commented that the removal of national protection would provide flexibility to local authorities to determine whether such land in their own areas should be used for development.

It was argued that other policies and material considerations would still apply to prime quality land and prevent a green light being signalled to inappropriate development. It was highlighted that NPPGs, development plans and green belt policies would all still have to be taken into account when considering a planning application. The 10 hectare rule would still protect the loss of larger areas of land. Some respondents also mentioned that environmental assessments would still be required for significant applications and that by July 2004, planning applications will have to be considered in the context of any emerging development plan proposing best quality agricultural land release. It was argued that if a development proposal is acceptable on all other grounds, then classification as prime agricultural land should not be a barrier.

A key view was that the removal of the national protection of prime land would enable new development and employment opportunities, aiding diversification and the rural economy. It was also argued the current state of the agricultural industry meant that the removal of national protection was essential.

Removal of National Protection

Increased Pressures for Development

A common concern was that removing the national protection of prime quality agricultural land would lead to increased pressures for development and it was agreed that much of Scotland's prime land is in areas where development pressure is at its greatest. Five local authorities were worried about the potential increase in conflicts with developers and held the view that prime land near urban areas in particular would come under significant pressure for development. Similarly, a professional planning body believed that the decision to develop on prime quality agricultural land should not be subject to local decision-making where the pressures for development by commercial interests, particularly from major housebuilders, can be extreme.

It was suggested that the removal of national protection would diminish the ability of planning authorities to resist inappropriate development. In addition, one individual commented that local authorities are too easily influenced by developers and that valuable land could be lost for good with the proposed changes. An environmental body argued that changing the level of protection of prime land from national to local protection would create a fragmentation of policy and decision making across the country, making it difficult for local authorities to defend their decisions on planning applications when challenged by developers using precedents set elsewhere. Homes for Scotland believe that it should be left to local authorities to determine whether the interests of development or agriculture should prevail in the particular circumstances.

A number of respondents believed there was a need to maintain a Scotland-wide approach to protecting prime quality land, indicating that if decisions are left up to local authorities, it would create a disparity and an inconsistent approach to the development of prime land.

Development of Green Belt

Concern was also expressed about the implications for green belt areas with 4 environmental bodies out of the 6 responding to the consultation concerned that the proposals could lead to increased pressures for the development of greenfield/greenbelt sites. It was argued that the size of developments on prime land from which special protection would be lifted (i.e over 10 hectares), would lead to large scale developments better suited to existing settlements.

One member of the public said that the proposals would increase the development of greenfield sites at the expense of brownfield or restorative schemes. Another respondent was concerned that greenbelt designation would not offer the required protection from development in the event of the national protection of prime land being removed. The Edinburgh Green Belt Trust contended that the removal of the blanket protection will substantially increase the pressure for development of greenfield sites, especially around the fringe of urban areas. Glasgow Council believed that as a result of the proposed changes, developers could potentially be encouraged to seek greenfield sites outwith Greater Glasgow to the detriment of the city which has a large amount of vacant or derelict land. Concern regarding the future of Edinburgh's greenbelt was also evident with a respondent making the point that its boundaries have altered 2000 times in 50 years.

Notification Direction

A number of respondents from private companies/organisations suggested that planning authorities should be able to determine planning applications affecting prime agricultural land without the requirement to notify Scottish Ministers. No planning applications relating to development on prime quality agricultural land have been notified to the Scottish Ministers in the last 5 years. One respondent stated that this lack of notified applications proves that the policy of protection is now unnecessary. On the other hand, it was contended that the lack of notifications does not prove the protection should be removed as it is possible that proposals for development on prime quality land have been modified or altered knowing that such protection exists.

One respondent considered that all planning applications relating to areas of ten hectares or more of prime agricultural land should be notified to Scottish Ministers to monitor and record the details centrally. They suggest that before any such planning application is determined, the Planning Minister should be consulted to allow the application to be considered in a nationwide context.

Long Term Implications/Need for Self Sufficiency

A large number of respondents were concerned about global stability and future climate changes. Some concern about international stability had probably been prompted by the terrorist activities on 11 September, just a few days before the start of the consultation period. Respondents from all interest groups were worried that the long term implications were being ignored. One individual said that sourcing food locally and reducing dependency on foreign trade may become even more relevant post 11 September.

Many respondents suggested that the need for agricultural land may be greater in the future and that a precautionary approach is vital. Many respondents commented that prime land can be used to enable Scotland to be more self-sufficient and reduce the need to import food from overseas. It was believed that it would be wiser to have the capacity to be more rather than less self-sufficient in food supply. South Lanarkshire Council commented that there is an increasing demand for organic food. With the perceived health benefits associated with organic food, it seems likely that demand will continue to grow as will the amount of land required to support such growth. Several respondents expressed the need to consider the requirements of future generations and one local authority pointed out that once the land is developed, it is very unlikely that it would ever return to agricultural land in the future.

It was suggested that prime quality land is significantly important in less productive agricultural areas where the expensive transportation of produce from more productive farming areas is the only alternative and cannot be termed sustainable. In addition, the prospect of climate change which could lead to pressures on food supply was picked up on by a number of respondents. One respondent stated that they would want to see figures showing the current level of self-sufficiency in Scotland and some future scenarios before the decision to remove the national protection is taken.

Agricultural Surplus

Many respondents believed that the agricultural surplus may be only temporary. A precautionary approach was generally recommended as requirements for agricultural land in the future are not known and cannot be determined at present. One local authority recommended that a long term assessment of demand and supply is undertaken before any changes to the current system are made.

It was argued that the UK could reduce agricultural production by adopting a less intensive and more environmentally friendly agricultural practices. It was also stated that the current surplus of agricultural crops is largely a function of the Common Agricultural Policy, which is regarded as being in need of a fundamental review.

Conversely, some respondents argued that where there are surpluses in many agricultural products and diversification of the rural economy is being encouraged, it may no longer be necessary to retain blanket protection for prime quality agricultural land.

Soil Strategy

A small number of respondents (7 in total) shared the view that the Scottish Executive should implement a national soil strategy in advance of any decision to remove the national protection of prime quality agricultural land.

Five of these respondents made reference to the Scottish Environment Protection Agency (SEPA) report 'State of the Environment - Soil Quality Report', published in April 2001. The report served to highlight the importance of soil as a non-renewable resource essential to a sustainable environment. One of SEPA's main recommendations in the report was that valuable soil resources should be protected. They also advocated the implementation of a national soil strategy to protect soils from unsustainable land use practices and pollution.

The respondents who mentioned SEPA's report, including four local authorities, all agreed that a national soil strategy should be put in place before a decision to remove the special protection of prime quality agricultural land is made. It was commented that the consultation is premature as the effect that the removal of special protection could have or what purpose it would actually serve has not yet been determined. Respondents believed a national soil strategy for Scotland would assist in this issue and in formulating guidance for the planning system.

A further point made on the importance of soil was that soil is a non-renewable resource increasingly under pressure. A respondent stated that soil helps to protect the environment by acting as a 'sink' or buffer for many contaminants, thus protecting water and air from pollution. They considered the sustainable use of soil to be critical to maintaining these functions. In addition, one of the local authorities argued that there was a current lack of information available on soil quality in Scotland. A different local authority suggested that the practicality of the removal and re-use of top soil should be investigated.

Among those respondents who mentioned SEPA's report, there seemed general consensus that a national soil protection strategy would establish a proper framework within which the proposals contained in the consultation paper could then be fully assessed.

Access to the Countryside

The issue of access to the countryside was mooted by various respondents to the consultation. One body suggested that if the proposal to remove the national protection of prime quality land goes ahead, there should be reference made to Rights of Way and Access Routes. As prime quality land is often found in close proximity to built-up areas, the importance of accessibility to rural path networks for walking over farmland was emphasised. Many public rights of way pass through prime quality land and could be threatened by increased development on land of this type. A number of respondents were concerned about the loss of large areas of the countryside for recreational activities to development.

One respondent who supported the Executive's proposals stated that a large amount of prime land found on the outskirts of towns and cities is not being used to full agricultural capacity and large areas are being left derelict. He also said that the proximity of prime quality agricultural land to existing settlements meant that it was often subject to trespass, in some cases resulting in the land no longer being capable of agricultural use. The protection of Scheduled Ancient Monuments found on agricultural land was also mentioned. It was argued that agricultural activity can have a damaging effect on historic monuments and that development on this land may actually assist better protection of them.

Alternative Proposals

Many respondents came up with alternative ideas, or suggested changes to the proposals contained in the consultation paper.

National Overview

A common argument was for the preparation of a national overview to safeguard the interests of future generations' requirements for agricultural land. One respondent mentioned that the preparation of a national overview document was proposed in the consultation paper 'Review of Strategic Planning' and argued that the status of prime land should form part of any such document. Another commented that the proposal should go no further until there has been an estimate of the number of hectares of prime quality agricultural land likely to be affected and there has been a full debate amongst all interested parties.

Even some of those in favour of the proposal appeared to recognise a need for a national overview of prime quality agricultural land. One company suggested that a requirement might be added to the proposal for local authorities to report their decisions on individual applications made for development on prime land to the Executive. This would allow the effectiveness of the policy's implementation at local level to be assessed.

Classification of Prime Land

A few respondents argued that the national protection should be removed from land graded 3.1 in particular. Some respondents who were against the proposals said that if the proposals must go ahead, they should be amended so that national protection should at least be maintained for the very best quality land classified as grades 1 and 2. In contrast, a couple of respondents argued that the level of national protection should be extended to more land rather than removed. It was mentioned that the Ayrshire Joint Structure Plan goes so far as to safeguard 3.2 grade land as it is important locally to crop yields. One idea was that rather

than withdraw blanket national protection, there should be an examination of where Class 1 and Class 2 land occurs as land on the immediate outskirts of a major town would be at greatest risk.

Some respondents suggested that there was a need for the whole classification of prime quality agricultural land to be reviewed before the current policy stance is abandoned. One local authority believed that grade 3.1 land should be dropped from the 'prime' category. Another said that there could be a case for the re-classification of prime quality land to identify areas where agricultural productivity is optimised. However, a professional body believed that the Scottish Executive should consider extending the definition of prime quality agricultural land to include even classes 4 and 5.1 in less favoured areas of Scotland where such land may be critical in sustaining agriculture.

Need for Further Studies

A number of respondents believed that the consultation paper was premature and that a variety of studies were required before the proposals to remove the special protection of prime quality agricultural land could be effectively considered. This was seen as a major policy change and more supporting information was considered necessary. Suggestions of studies that should be carried out included a full sustainability appraisal to assess whether the blanket removal of national protection is merited or sustainable and a strategic overview of the future of agricultural land. There should be a long-term assessment of demand and supply undertaken, taking into account the National and European context as well as the impact on rural employment and the rural environment.

It was suggested that if the proposal goes ahead, measures to strengthen the protection of existing, new designated and special areas, such as greenbelts, combined with improvements to the enforcement of that protection must be put in place.

Role of Scottish Executive

One local authority in favour of retaining the current level of national protection said that it should be for the Scottish Executive to determine whether other planning objectives outweigh the protection of prime quality agricultural land. They suggest that where a Council wishes to depart from the national policy they should provide a statement to justify their approach on planning grounds as well as an explanation that the development is required and why it is the only suitable area where the development can be accommodated.

A few respondents mentioned the need for guidance to be made available to local authorities to assist them in their proposed new responsibility. One respondent suggested the Executive produce a NPPG or PAN on the subject to ensure that the importance of prime quality land continues to be a material consideration in the drafting of structure and local plans, as well as in the determination of planning applications.

Amendments to Proposals

Various amendments to the proposals were suggested by respondents from all groups. Some respondents believed that a degree of flexibility needed to be incorporated into the proposed changes and that local authorities should be allowed discretion to identify areas of quality agricultural land which they deem require protection. It was pointed out this is particularly

important in the Western Isles where the majority of agricultural land is in crofting tenure and should therefore be treated as a special case. One local authority suggested that national protection could be retained for prime land near to the main areas of urban growth which are subject to the highest levels of development pressure, but the policy could be relaxed in rural areas where the need for rural diversification is greatest.

One respondent felt that irreversible development on agricultural land should be directed to areas of lower grade where possible. They commented that prime quality agricultural land should only be released for development if the development in question would deliver clear benefits from a sustainability point of view which would not be attained to the same degree elsewhere.

Involvement of Third Parties

One respondent believed that the involvement of an external authority to oversee local authorities' decisions would be a useful tool in the decision-making process. They suggested that involvement by an extraneous third party would provide a worthwhile and workable safeguard to the process. Another idea put forward was that QUANGO boards be set up to administer the present system of protection to prime land graded 1 and 2.

Alternative Uses of Prime Quality Agricultural Land

Respondents commented that there were alternative ways to use prime quality agricultural land that did not constitute irreversible development. New habitat creation, especially native woodland expansion, was suggested as an alternative to development. Forestry was a possible use of prime quality land that was mentioned by a number of respondents.

Other Suggestions

A professional body said that they believe the Executive should encourage the redevelopment of brownfield sites where possible, by introducing tax incentives for decontamination work for example. Two respondents also favoured the development of Land Management Contracts which were proposed in the Executives report 'A Forward Strategy for Agriculture' and could ensure the continued availability of land for agricultural purposes.

The suggestion of offering incentives for bringing redundant farm buildings back into use and thereby encouraging farmers to diversify was also put forward.

Sustainable Development

A recurring theme from consultation responses was that prime quality agricultural land is a non-renewable resource which once irreversibly developed, could never be replaced. Many respondents believed that it should be used in a way which would not have implications for future generations. The majority of respondents agreed that the removal of the national protection was contrary to the Executive's objective of sustainable development. Of the 24 planning authorities that responded to the consultation paper, 17 stated that the proposals ran contrary to sustainability objectives. One authority said that any proposals resulting in a reduction of the total amount of prime land cannot be reconciled with sustainable development objectives. However, another local authority said that prime land is only one of a number of factors that must be considered in the pursuit of sustainable development.

A number of respondents stated that there is currently a move towards more sustainable, less intensive forms of agriculture e.g organic farming and horticulture. For this type of farming there is a need to use prime quality agricultural land to ensure a suitable quantity of produce can be achieved. This means that prime quality agricultural land is of increasing importance and one respondent stated that a move away from intensive farming would help to meet sustainability objectives. Others cited an increasing demand for locally grown produce. Some respondents were concerned that self-sufficiency, a key element of sustainable development, could be reduced, leading to an increase in food imports.

Many respondents said that the demand for organic food is increasing and likely to grow further, requiring a need for a cautious approach. It was believed that the lack of a national overview could undermine a long-term and sustainable approach to future development strategies. It was argued that the current level of national protection supports sustainable development principles as it retains long-term options for lower intensity farming in Scotland and increased self sufficiency. An environmental body stated that the planning system must be able to resist inappropriate development on greenfield land in order to encourage sustainable development.

On the other hand, one landowner/manager argued that the objective of sustainable development would not be affected by the proposals as prime land would still be protected by other designations e.g. Green Belt policies. A private company who agreed that sustainable development objectives would not be affected stated that local authorities would be able to achieve rural diversification. Another respondent stated that the removal of national protection would actually enhance and sustain rural communities. They felt that the removal of national protection would achieve sustainable development through new forms of investment in the countryside and would enable better planning of settlements and the countryside. A private company pointed out that many businesses cannot afford to acquire land and build buildings in order to increase productivity. They believed that releasing more land would allow these companies to build new factories etc, therefore creating a sustainable rural environment.

There were clearly mixed views about which policies enable sustainable development and whether the proposals would seriously affect the pursuit of this objective. However, a clear majority of respondents were concerned that the removal of the national protection of prime quality land would go against sustainability principles.

THE EXECUTIVE'S CONCLUSIONS

The Executive has carefully considered all of the views received from respondents to the consultation exercise. The Executive recognises that there are concerns about removing the protection of prime quality agricultural land from development, and it also notes that many accept that there needs to be more opportunities for farmers to diversify. There have been no cases notified to the Executive in the last five years under the terms of the Notification Direction in paragraph 1 of the schedule to Annex A of circular 4/1997 (Annex A of the consultation paper). The Executive does not therefore see any real purpose in retaining this Direction. Removing the Direction would not mean that prime quality land will not continue to be protected. Prime quality agricultural land will continue to be protected through relevant policies in National Planning Policy Guidelines and Circulars (for example, Green Belt policies) and Ministers will still have an overview of prime land, given their role in approving structure plans and being informed of any significant proposals contrary to structure plans.

For farming to continue it is vital, however, that farmers have sufficient scope to diversify into new enterprises and this needs to be re-examined to ensure that they do.

NEXT STEPS

Immediate revocation of the Notification Direction on **Agricultural Land** in the schedule to Annex A of circular 4/1997.

Research is currently underway to evaluate the effectiveness of National Planning Policy Guideline (NPPG) 15 *Rural Development*. This is looking at, amongst other matters, diversification issues including those concerned with prime quality land. In 2003 the guidelines in NPPG 15 will be re-examined and, if appropriate, a revised version will be published.

REMOVING THE SPECIAL PROTECTION OF PRIME QUALITY AGRICULTURAL LAND FROM DEVELOPMENT

ANNEX A: List of Respondents

Aberdeen City Council
Aberdeenshire Council
Angus Council
Anthony Ramsay
Arbuthnott Estate
Ayrshire Joint Structure Plan & Transportation Committee
Baxter, Clark & Paul
Bill Lindsay
British Society of Soil Science
BT Scotland
Central Scotland Countryside Trust
Christopher Miller
Civil Engineering Contractors Association (Scotland)
Colinton Amenity Association
Comhairle nan Eilean Siar
Council for Scottish Archaeology
Director of Planning & Development Services - Perth & Kinross Council
Dr Jeremy Raemaekers
Dumfries & Galloway Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Renfrewshire Council
Edinburgh Green Belt Trust
Faculty of Advocates
Falkirk Council
Fife Council
Glasgow City Council
Halliday Fraser Munro (on behalf of The Dunalastair Estates Group)
Health and Safety Executive
Homes for Scotland
Ironside Farrar Ltd
John Bonington
Kilmadock Community Council
Kincardine Estate
Lattice Property Holdings Ltd
Mactaggart & Mickel
Madhu Satsangi
Marks & Spencer PLC
Maurice Checker
Midlothian Council
Mr John Paton
Mrs Fiona C Cuthill
NFU Scotland
Nick Randall

North Ayrshire Council
Peter Scott Planning Services
Registers of Scotland
Renfrewshire Council
Royal Fine Art Commission for Scotland
Royal Town Planning Institute in Scotland (RTPI)
RPS Consultants
Ryden
Scottish Borders Council
Scottish Coal
Scottish Crofting Foundation
Scottish Enterprise Lanarkshire
Scottish Landowners' Federation
Scottish Liberal Democrats
Scottish Natural Heritage (SNH)
Scottish Organic Producers Association (SOPA)
Scottish Society of Directors of Planning
Scottish Wildlife Trust
Scottish Environment Protection Agency (SEPA)
South Ayrshire Council
South Lanarkshire Council
Stirling Council
The Architectural Heritage Society of Scotland
The Association for the Protection of Rural Scotland (APRS)
The Church of Scotland General Trustees
The City of Edinburgh Council
The Cockburn Association
The Ferryhill Heritage Society
The Highland Council
The Law Society of Scotland
The Macaulay Institute
The Moray Council
The Royal Incorporation of Architects in Scotland (RIAS)
The Royal Institution of Chartered Surveyors in Scotland (RCIS)
The Scottish Civic Trust
The Scottish Rights of Way and Access Society
The St Andrews Green Belt Forum
Timber Growers Association
W I Munro Chartered Architects
Weatherall Green & Smith
West Dunbartonshire Council
West End Community Council
West Lothian Council
William Lippe Architects
Woodland Trust Scotland

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