

Planning Circular 4/1996: town and country planning (general development procedure) (Scotland) amendment order 1996: consultation with community councils and Scottish Environment protection agency etc

The Chief Executive
Regional and Islands Councils

The Chief Executive
District Councils (except in Highland, Borders and Dumfries and Galloway Regions)

The Chief Executive
Shadow Local Authorities

Our Ref: PGB/4/28

6 March 1996

Dear Sir/Madam

**TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE)
(SCOTLAND) AMENDMENT ORDER 1996:
CONSULTATION WITH COMMUNITY COUNCILS AND SCOTTISH
ENVIRONMENT PROTECTION AGENCY, ETC**

Introduction

1. This Circular explains the provisions of the Town and Country Planning (General Development Procedure) (Scotland) Amendment Order 1996 (SI No 476/1996) which was made on 26 February 1996 and comes into force on 1 April 1996. This Order amends the 1992 General Development Procedure Order (the GDPO) by introducing statutory requirements for planning authorities to consult community councils, SEPA and the new water and sewerage authorities. A few more minor and technical amendments are also included.

2. Copies of the Amendment Order are not yet available. Rather than delay publication of this Circular and the related Planning Advice Note (PAN) 47 "Community Councils and Planning", copies of the Amendment Order will be sent to Chief Executives separately within the next few weeks.

Planning advice note (PAN) 47: community councils and planning

3. The PAN, which is enclosed with this Circular, provides good practice advice to help planning authorities and people in local communities to make the best use of community councils' new statutory right to be consulted on planning applications. The PAN should, therefore, be distributed to all community councils. As there is no centrally held list of community councils, I would be grateful if planning authorities would arrange distribution to the community councils within their area. This arrangement has been discussed with COSLA. An additional 30 copies of the PAN

are enclosed for this purpose. Further copies can be obtained from The Scottish Office Development Department, Planning Services, 2-H, Victoria Quay, Edinburgh, EH6 6QQ (0131-244-7543).

4. We recognise that as authorities and community councils become more familiar with the new consultation procedures, they may identify additions or changes which should be made to the good practices set out in the PAN. Accordingly, we will be happy to review the PAN in light of experience.

Amendments to the general development procedure order 1992

5. The amendments are as follows:

5.1 Article 2 - Interpretation. New definitions of community council, SEPA and water and sewerage authority are inserted and the definition of river purification authority is deleted. These changes are consequential to the amendments described in paragraphs 5.2 and 5.3 below;

5.2 Article 3 - Procedure on receipt of applications. A new paragraph (9) is added to Article 12 to require the planning authority to send to each community council a weekly list of all planning applications, including outline applications, applications for approval of reserved matters and further applications. The weekly list must give the application's reference number, the site location, date of receipt, name and address of the applicant or his agent and a description of the proposed development;

5.3 Article 4 - Consultations before grant of planning permission. In Article 15(1):

5.3.1 a new sub-paragraph (h) is substituted in order to replace river purification authorities with their successor the Scottish Environment Protection Agency (SEPA). It also introduces a new requirement for planning authorities to consult SEPA about applications likely to result in a material increase in the number of buildings at risk of being damaged by flooding. This gives statutory effect to advice in National Planning Policy Guideline (NPPG) 7 "Planning and Flooding". The Town and Country Planning (Notification of Applications) (Scotland) Amendment Direction 1996 (enclosed with this Circular) requires the planning authority to notify the Secretary of State where, having consulted SEPA on flood risk, they propose to grant planning permission:

- (i) which SEPA has advised against; or
- (ii) without conditions which SEPA has recommended;

5.3.2 to take account of the new water and sewerage authorities taking over from regional and islands councils from 1 April 1996, a new sub-paragraph (m) is inserted which requires them to be consulted about applications where the development is likely to require a material addition, or other material change, to water and sewerage services;

5.3.3 a new sub-paragraph (n) is added which requires the community council to be consulted where:

- (i) within 7 days of the date on which they were sent the weekly list under Article 12(9), they have asked to be consulted on a particular application;
- (ii) the development is in a class of case or in an area in respect of which the planning authority and community council have agreed in writing that they will be consulted; or
- (iii) the planning authority consider the development is likely to affect amenity in the council's area;

Community councils are entitled to the same 14 day period for comments, under Article 15(3), as other statutory consultees.

5.4 Article 5 - Appeals. This corrects minor errors in Article 23, as follows:

5.4.1 in paragraph (2)(b) the reference "or (2A)" which was inserted in error by a previous Amendment Order is deleted; and

5.4.2 a new paragraph (6) is added to reinstate the requirement for a notice of appeal to be on a form obtained from the Secretary of State and state the grounds of the appeal. This was deleted in error by a previous amendment to paragraph (4).
Financial and Manpower Implications

6. The new arrangements for consulting community councils have been designed to minimise the burden on planning authorities. However, there may initially be some additional administrative tasks for planning authorities in setting up appropriate consultation procedures. As most authorities already consult community councils, the financial and manpower implications should be minimal. The other changes to consultation procedures update existing arrangements or give statutory effect to advice which authorities should already be following and so should not have any financial or manpower implications.

Further copies and enquiries

7. Enquiries about the content of this Circular should be addressed to Mr Stephen Bruce (0131-244-7065). Further copies and a list of current planning Circulars may be obtained from The Scottish Office Development Department, Planning Division, 2-H, Victoria Quay, Edinburgh, EH6 6QQ (0131-244-7066).

Yours faithfully

M T Affolter

THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS) (SCOTLAND) AMENDMENT DIRECTION 1996

The Secretary of State in exercise of the powers conferred on him by Articles 17, 19 and 22(3) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (a) and all other powers enabling him in that behalf, hereby gives the following Direction:

1. After paragraph 11 (Wind Generators) of the Schedule to the Town and Country Planning (Notification of Applications) (Scotland) Direction 1988 there shall be inserted:

" Flooding

12 Development which has been the subject of consultation with the Scottish Environment Protection Agency (SEPA) under Article 15(1)(h)(i) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 where SEPA has advised against the granting of planning permission or has recommended conditions which the planning authority do not propose to attach to the planning permission."

2. This direction may be cited as the Town and Country Planning (Notification of Applications) (Scotland) Amendment Direction 1996 and shall come into force on 1st April 1996.

M T Affolter

Assistant Secretary
The Scottish Office Development Department
Victoria Quay
Edinburgh

1 March 1996