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MAKING DEVELOPMENT PLANS DELIVER

Thank you for the opportunity to comment on this consultation. Our general remarks are set out below, whilst detailed answers to specific questions are contained in the Annex to this letter.

As indicated in our response to the consultation on the Review of Strategic Planning in 2001, we welcome proposals to modernise the planning system and, in general, we support the proposals contained in this consultation. Those we regard as particularly worthwhile include proposals to:

- streamline the preparation and adoption of plans because of the time-consuming nature of these phases;
- consider the use of model policies as a means of sharing best practice and speeding up production of plans. As the recently published research on model policies indicates, these are of particular value for national and international natural heritage designations where the legislation is prescriptive, but may also be useful for local designations;
- provide supplementary planning guidance (SPG) with a statutory basis because of the potential to include detail concerning the natural heritage or other relevant land-use issues such as forestry which might otherwise not be included within the new style plan; and
- require action plans to accompany development plans because they will make an explicit and public commitment to undertaking specified actions and should be based on realistic estimates of available resources, which has the potential to directly benefit the natural heritage.

We also support the suggestion that consultation on development and community plans could be combined. As well as avoiding consultation overload, it should assist

with the integration of these plans. At the same time, there is also a need to consider further how best to bring about greater integration with other plans, such as River Basin Management Plans, the National Park Plans or those that may arise from the Scottish Executive's consultation on a strategic framework for Scotland's marine environment. Amongst the benefits of integrating development plan production with other planning frameworks are the opportunities to identify constraints on development at an early stage, secure alignment of investment programmes, and obtain political input to, and democratic legitimacy for, any choices that may have to be made between objectives identified through the different processes.

Of the other proposals, the one that gives us most concern is the one suggesting that omission of the current 'consultative draft stage'. Our detailed thinking on this is provided in the annex, though in summary we suggest that this step should be retained but in simplified form (possibly by restricting it to key stakeholder organisations).

Information provided in paras 32, 47-50, and 55-61 provides some steer on the general form and possible contents of the new development and City Region Plans. However, at this stage it is still not possible to be entirely clear about what these new plans will contain and how they will work in practice. In particular, we consider that there are a number of difficult issues to be resolved in terms of striking the right balance between streamlining development plans while retaining their effectiveness in setting the framework for development control functions. Three issues are of particular concern.

- *Policy content of development plans*

One possible implication of the new development plans is that with less policy narrative there is less certainty for developers, and perhaps a greater likelihood of development control becoming more protracted and contentious, which would be contrary to the Scottish Executive's aspirations for a shorter planning process. Notwithstanding the steer in para 32 about the content of plans, and proposals for SPG in para 49, we are in particular concerned that the drive to reduce the narrative in plans may make it more difficult for us to get across key messages about the natural heritage. One resolution to this would be make certain subjects mandatory for development plans. The development of model policies for a limited number of key European and national policies may also be part of the solution to this.

- *Relationship to SPS series*

Moving towards more streamlined development plans may also require a different approach to national planning statements. Indeed, we wonder if the recent move

to streamline these documents may work against some elements of the proposals contained in this consultation paper. A good example of this potential tension is provided by the recent draft SPS on rural development. In preparing this draft statement, the Scottish Executive have consciously tried to reduce its content, concentrating on a small number of key policy messages and cutting back on associated guidance, with the expectation that local authorities will apply these policies and develop this guidance in practice through their development plans. At best such material might be contained in SPG or design guides rather than the development plan, but then there is a risk that plans will accumulate numerous associated publications which could be confusing to the public and developers alike, and which would do little to speed up the planning overall. At worst it is however possible that this material will not be prepared and that subject of appropriate rural development will not be adequately addressed in the development plan, resulting in potential confusion and further delay in the planning process as well as development which is socially, economically and environmentally damaging. To support a move to more streamlined plans, we would argue that the Scottish Executive will need to give greater consideration to the contents of its SPS series, making sure that such documents provide a more comprehensive approach to planning policy which can adequately inform the slimmer development plans proposed and the development control decisions based on them.

- *Implications for SEA*

Streamlining development plans themselves may also have implications for SEA, and indeed may make it difficult to undertake this process of assessment in a meaningful manner. This issue appears to merit more thought by the Scottish Executive. While welcoming the SE's intention to produce a PAN on the SEA of development plans, we suggest that, amongst other matters, it should spell out the differences between SEA, EIA and Appropriate Assessments under the Conservation (Natural Habitats, &c) Regulations 1994.

Many of these concerns may be of course be addressed by the proposed PANs on local development and city regional plans, and we would certainly welcome the opportunity to comment on drafts of these. We also look forward to seeing the proposed guidance on what local authorities should be including in development plans that we understand the Scottish Executive intends to draw from the suite of SPPs.

Finally, but importantly, we wish to highlight the relationship between this consultation and that regarding "Rights of Appeal in Planning" (sometimes known as TPRA). In our response to the consultation on TPRA, we indicated that whilst we consider it appropriate to make some changes in the planning system to provide improved opportunities for third parties to influence decision-making, we think that a

wider and more general right of appeal would be too cumbersome, costly and impractical, adding further, undesirable delays and constraints to planning and development.

This view is, at least in part, informed by our understanding that one of the main arguments for introducing TPRA stems from public concerns that local authorities are not taking decisions in accordance with the adopted development plan. We consider that a more interventionist approach to the preparation and implementation of Development Plans on behalf of the Scottish Executive would be a more effective means of addressing such concerns. To that end, we would urge the Executive to monitor the compliance of development plans with national policy and intervene in the determination of planning proposals which would be contrary to new up to date Plans, particularly where such departures would be contrary to the recommendations of Planning Officers and/or where the Authority has an interest in the proposed development or land involved.

I hope you find these comments helpful. If you would like to discuss them further, please contact Mairi Caughey (Tel: 0141 9514488; e-mail: mairi.caughey@snh.gov.uk) at our Clydebank Office.

Iain Rennick
Head of Secretariat

Consultation Questions

- Q1 We concur with the statement that strong political will is important, but this must be informed by professional expertise, knowledge and correct information, and guided by proper project management skills.
- Q2. Yes, most certainly, but clearly the staff resources must be available to make this happen.
- Q3. We support the idea of inducements and directions by the Scottish Executive as means of ensuring faster preparation and review of plans, but consider that penalties, such as removing the right to charge fees, would be counterproductive. Thus, we broadly support the suggestions in the 1st, 2nd, 4th, 5th and 7th bullets under para. 23 but would advise against the use of the 6th. Regarding the suggestion in the 3rd bullet, Reporters already use their discretion to place less weight on very old development plans and this discretion is perhaps sufficient.
- Q4. We have serious reservations about the proposal to replace the consultative draft stage with early targeted consultation because it currently provides an early opportunity to see draft policies and flag up any serious concerns that we might have in an informal manner. This existing practice reduces the likelihood of SNH submitting an objection to a deposit draft plan, thereby prolonging the inquiry and adoption process. Rather than replace consultation on draft policies and proposals, early targeted consultation on the key issues should precede consultation. This view is informed, at least in part, by our recent involvement in the production of the new Wester Ross development plan. We were dissatisfied with our opportunities to make an input on issues affecting the natural heritage, particularly in respect of the new, simplified approach; we were invited to highlight issues of concern to SNH in Wester Ross at a single meeting early in the process, but otherwise had no engagement in the subsequent development of the new approach, except on the subject of housing. We were frustrated by the difficulties in commenting on ever-changing versions prior to the deposit draft and have significant concerns about the resulting plan. Ultimately, this experience suggests that removing the consultative draft stage does not save time or streamline the process.

We therefore do not support this proposal as it stands, although it might be possible to streamline the consultative draft stage by engaging only the main statutory agencies on key issues and the general policy framework, and thereafter to conduct full public consultation on the deposit draft.

- Q5. We agree in principle that key agencies should comment on development plans and, as a statutory consultee which regards the development plan system as an essential mechanism to help us achieve our aims, SNH places a high priority on responding to development plan consultations. However, we would welcome some clarification about the meaning of the term “engage?”

If this term implies full participation at key statutory stages then we welcome this suggestion as a reinforcement of what we already seek.

We also consider that there is a case for Scottish Water and other infrastructure-providing organisations, such as the Roads Authority, to have to take a greater role in development planning. And we certainly agree that there are benefits to be gained by bringing such bodies together at an early stage to facilitate greater alignment of investment programmes.

- Q6. Perhaps businesses could be invited to partake in stakeholder workshops, with the purpose of improving awareness about opportunities, issues and constraints, and on subjects such as applying the concept of sustainability to the local context.
- Q7. Yes, we agree that the certified copy of the plan should remain a paper copy because this is available to all; an e-copy is available only to the 45% of the adult population who have access to the Internet.
- Q8. We note that there are already regional level Development Planning Forums and a national level equivalent seems like a good way of supporting better plan making. Ideally, SNH would want to have the opportunity to make an input to such a Forum's discussions on issues affecting the natural heritage. Such a forum could also usefully assist the Scottish Executive in the future revision of Scotland's National Planning Framework.
- Q9. We wholeheartedly support the idea of producing action plans provided that they are specific, measurable, achievable, realistic and time limited (SMART), otherwise they will be meaningless; planning authorities may therefore need some guidance on the content of an Action Plan. Once again, this activity will need to be adequately resourced, which raises its own issues, not least for SNH.

We agree that action planning should be a continuous process, although we wonder whether it would be more realistic to publish an action plan every three years and question whether it is fair to place so much reliance on use of the Council's website to alert people to changes, given that so many people do not have access to the internet. Moreover, we wonder how interested parties are to be notified that changes have been made to the electronic version.

- Q10. The suggestion of using area-wide plans to set the context for mosaics of plans is sound in principle (subject to them being simple, quickly produced and action focussed), particularly for areas such as the Highlands where there are approximately 20 plans. However, it may often be more efficient and effective simply to press ahead with replacing existing plans with a single, area-wide plan.
- Q11. Yes.
- Q12. Yes.

Q13. Reporters are of course in a position to take an overview of plan making issues and policy interpretation at the local level, and one advantage is that they are able to bring to bear a degree of consistency across the country. Consequently, it could be argued that if their decisions are not binding on local authorities, the effect is to 'waste' this wider perspective and opportunity to achieve greater consistency. Whilst we recognise that limiting the ability of local authorities to depart from Reporters' recommendations could be regarded as a limitation of the independence of local authorities, and is unlikely to engender local ownership of the plan, we favour on balance the situation whereby Reporters' views would be binding.

We would also like to take this opportunity to reiterate our previous remarks to the effect that the SE should retain the right to have a plan referred to them if they (or SNH/others) consider that it is not adequately reflecting national policy or guidance. Equally, we consider that it is essential any proposed departures from the development plan should be notified to the SE and that the SE should be prepared to intervene and, where appropriate, overrule the local authority in such cases. In our view, these provisions are important ways of reducing the need for third party rights of appeal.

At the same time, we welcome the intention to reduce the formality and frequency of inquiries, and the notion of giving Reporters discretion regarding which issues are to be heard orally.

Q14. Broadly we agree with the proposed content for city region plans (CRPs). However, matters such as aggregates/minerals/opencast, renewable energy, and waste are usually considered to be of strategic importance and if they are not to be addressed by the CRPs, it would be helpful to understand the SE's rationale for this and how the SE considers they should be addressed. It would also be helpful to know exactly what matters are to be encompassed by the 'environment'. We therefore look forward to seeing these matters explored in the PAN on CRPs.

Q15a. No comments.

Q15b. No comments.

Q16. The proposed approval process seems reasonably quick and transparent, although we would hope that prolonged exchanges would not occur between Reporters and objectors regarding the reports. We would also hope that the draw down on the time of contributors such as SNH would not become excessive and suggest that as far as possible written representations could be relied on as opposed to oral evidence.

Q17. Yes, although obviously Structure Plans should remain in force until Area-wide LDPs have been formally adopted.

Finally, we note and support the conclusions reached with respect to development planning in National Parks, and specifically the role envisaged for National Parks

Plans in setting the strategic framework for the (local) development plans. Ideally, guidance prepared on this should also promote the role of the Park Plan in influencing the contents of (local) development plans and City Region Plans prepared for areas surrounding or in between the National Parks.

Scottish Natural Heritage

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