

**REPORT TO: ENVIRONMENTAL SERVICES COMMITTEE ON 20
FEBRUARY 2008**

**SUBJECT: CONSULTATION RESPONSE
NEW PLANNING ACT REGULATIONS ON DEVELOPMENT
PLANNING**

BY: DIRECTOR OF ENVIRONMENTAL SERVICES

1. REASON FOR REPORT

- 1.1 To agree responses to a Scottish Government consultation on the proposed Regulations for preparing Development Plans under the new Act.
- 1.2 This report is submitted to Committee in terms of Section E(2) to review or prepare all Strategic and Local Plans.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee agree the response to the set of 20 Consultation Questions, contained in the Appendix to this report.**

3. BACKGROUND

- 3.1 The Planning etc (Scotland) Act 2006 provides a wholly new statutory basis for development planning in Scotland and introduces strategic development plans (SDPs) and local development plans (LDPs) to replace existing structure plans and local plans. The Act also gives Scottish Ministers powers to prepare regulations concerning a range of detailed aspects of the new development planning system. These regulations will in due course replace the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983.
- 3.2 The new Act contains more detail on the procedures to be followed in preparing development plans than the Town and Country Planning (Scotland) Act 1997. The draft regulations do not repeat this detail, but pick up on the specific powers to prepare regulations contained in the new Act. In order to provide clarity on how these two sets of requirements fit together, this consultation brings together the established requirements of the Act with the proposed requirements of the draft regulations. But it offers discussion and poses questions only on those parts not fixed by the Act.

- 3.3 The draft regulations have been designed to provide a minimum set of requirements to ensure that Scottish Ministers' priorities for the operation of the development planning system are achieved. The aim has been to provide a light regulatory touch.
- 3.4 There is a separate consultation ongoing on draft regulations governing the examination procedures for development plans, and a response will be reported to this Committee.
- 3.5 This Council's new Local Plan is likely to be adopted before the new Act is brought into force in October of this year, however the procedures for the subsequent replacement of the new Plan are expected to commence straight away.
- 3.6 In summary, the new Act requires Development Plans to be prepared differently, as follows:
- There will still be a two tier system of Plans. Structure Plans will now only be prepared for "city regions" and will be known as Strategic Development Plans (SDP). Local Plans will become Local Development Plans, with those outwith SDPs having a strategic outlook/vision statement.
 - Authorities will be required to produce a Development Plan Scheme annually. This is effectively a forward timetable for ensuring Authorities are on track to conduct a Review every 5 years. It will include details on proposals for consultation/participation. These will be subject of scrutiny by Scottish Ministers
 - More emphasis will be given to annual monitoring of performance. These will be expected to evaluate changes in characteristics of an area and the impact of policies and proposals.
 - A Main Issues Report will take the place of previous Consultative Drafts. (The draft Moray Local Plan 2008 was a version of this, linking issues with options for ways in which towns/villages could expand).
 - Local Development Plans are to contain a Vision Statement and strategy; policies are to be reduced in detail – (this to be contained in supplementary guidance); proposals; an action programme; (the new Moray Local Plan 2008 is very much along these lines already). The Action Programme has to be updated every two years and forwarded to the Scottish Ministers.
 - Supplementary Guidance is to become part of the statutory process and subject to wide consultation; a report on objections and consideration is to be submitted to Scottish Ministers.
 - The Finalised Plan will be known as the Proposed Plan. Neighbour notification has to be carried out for all "significant" site designations and a Schedule of all Council owned land affected by policies/proposals to be included.
 - The Council will be able to deal with minor (non-notifiable) Modifications to its final Plan, without recourse to Inquiry; major (notifiable) Modifications require full re-consultation.

- There will no longer be a right to be heard at a Public Local Inquiry. An appointed Reporter will take the submitted objections and Council responses and decide whether he has enough information. He can request more information and can decide if a hearing is necessary. Otherwise it can all be dealt with by written submissions. This stage will be called "Examination", with any findings largely binding on Authorities. Local Authorities still adopt, as at present. A consultation paper on Examination procedures is currently out, with responses due by 4 April.
- The modernised system of LDPs will require statutory Review every 5 years, so interim Alterations are being disbanded. The Review will update only those parts of the adopted LDP that need to be replaced. The two-yearly resubmission of the Action Plan to Ministers is intended to keep the Plan sufficiently up-to-date.
- The estimated date for commencement of the Development Planning Proposals is October 2008. Within 3 months of this a Development Plan Scheme has to be submitted to the Scottish Ministers and a new Plan at "published plan " (finalised stage) be prepared within 3 years. (Unfortunately as soon as the Council adopts the new Moray Local Plan 2008, it will have to start preparations for the new one, although there may be scope to get dispensation from this).

4. **PROPOSALS**

- 4.1 It is proposed to submit responses to the questions as contained in the Appendix.

5. **SUMMARY OF IMPLICATIONS**

- (a) **Corporate Development Plan/Service Improvement Plan/Community Plan**
Not applicable
- (b) **Policy and Legal**
The preparation of the new Local Development Plan will be a statutory responsibility, governed by Regulations.
- (c) **Resources (Financial, Risks, Staffing and Property)**
There are no financial/staffing implications arising from this consultation.
- (d) **Consultation**
The Principal Solicitor (Commercial and Conveyancing) has been consulted and is in agreement with the opinions and recommendation in this report.

6. CONCLUSION

6.1 The main areas of concern with the proposed Regulations governing new Plan preparation, relate to

- (a) the extent of consultation being imposed on the Planning Authority and the expectations of those consulted, as a result; and**
- (b) the involvement of the Scottish Ministers at various stages, as a 'scrutiny' on the procedures being followed; referral to the Scottish Government has historically been a serious delay in approval of Structure Plans and it would be regrettable if the new procedures for referral precipitated the same elongation of timescale to complete the Plan.**

These are expressed in the answers to Q8 and Q20 in the Appendix.

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Background Papers:

Ref: DL/JC

