EXECUTIVE NOTE

THE TOWN AND COUNTRY PLANNING (HIERARCHY OF DEVELOPMENT) (SCOTLAND) REGULATIONS 2009 (SSI/2008/DRAFT)

The Planning etc. (Scotland) Act 2006 introduced the hierarchy for planning in primary legislation, defining the three categories to which all developments will be allocated. The hierarchy is at the heart of the proposals for planning reform. The intention is that it will encourage a more proportionate approach to processing planning applications, focusing resources on proposals that involve greater economic benefits or environmental impact.

The National Planning Framework will designate "national developments" and section 26A(2)of the Act gives Scottish Ministers powers to make regulations to describe classes of development other than national developments and assign each class to either "major developments" or "local developments".

The Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 have been made by Scottish Ministers in exercise of the powers conferred by section 26A(2) of the Town and Country Planning (Scotland) Act 1997 and of all other powers enabling them to do so.

The regulations are to be approved by affirmative procedure by the Scottish Parliament. The aim is for the regulations to come into force on 6th April 2009.

Policy Objectives

In 2005 the White Paper *Modernising the Planning System* set out aims for the creation of a system that was as a whole fit for purpose, efficient, inclusive and sustainable. The hierarchical approach concentrates on making the system more fit for purpose and efficient.

Fitness for Purpose

In preparing these regulations, Scottish Ministers' general approach has been to simplify regulation. Straightforward regulations will be easier to follow and less likely to create legal pitfalls for planning authorities.

The regulations describe in a simple Schedule classes of development with corresponding criteria or thresholds which, if met or exceeded, define a development as "major". There are nine classes of major developments to reflect the main types of major developments and the way they are measured, whether it is in megawatts for energy proposals, number of dwellings for residential projects, or site size and floorspace for other classes such as for business and industrial etc. The regulations also confirm that an extension to an existing development is only to be treated as major developments where the extension alone would meet, or exceed, the relevant threshold or criteria. Local developments are described in the regulations as all developments which are neither "national" nor "major". This description of local developments is straight forward. The hierarchy promotes a more proportionate approach; allowing the planning system to respond appropriately to the different proposals coming before it, allowing developments to be processed and scrutinised according to their scale.

Efficiency

The Scottish Government's intention is that there should be a focus on engagement and scrutiny on the more complex development management proposals, while at the same time seeking to streamline and speed up those processes, where possible. Public bodies will be able to prioritise their resources more effectively while allowing planning authorities to process applications more efficiently. Major proposals which are likely to have the most significant economic, social or environmental benefits should receive appropriate priority by planning authorities. A more proportionate procedure for local developments is also important, ensuring that best use is made of delegated powers for planning officers to make decisions whilst freeing up the system by exempting very minor developments from the planning application process. The hierarchical approach also emphasises the importance of local decision making.

Consultation

The Planning Hierarchy Consultation Paper was published in November 2007, allowing a three month consultation period. The Scottish Government received a total of 90 responses to the consultation from a wide range of interested stakeholder organisations at both national and local level and from a number of individuals.

The full responses and an analysis can be viewed on the Scottish Government website. Generally, there was support for the introduction of the hierarchy for planning, providing the opportunity for a more proportionate system for dealing with different types of applications.

Following responses from the minerals and fish farming industries two additional classes are included in the Schedule of Major Developments to cover those sectors.

Views were mixed as to whether the various thresholds for major development should be higher or lower. Suggestions for lower thresholds came from members of the business sector, primarily due to concerns that they would lose a right of appeal to Scottish Ministers, instead of seeking a review of the decision by the planning authority. For example, the Scottish Property Federation commented that they believed a significant number of development applications would not fall within the major developments class and suggested that some degree of revision was needed. The Federation of Small Businesses expressed concern that local developments, which the majority of planning applications submitted by small businesses would fall into, would be seen as lower priority. Additionally whilst the approach to avoid regional variation in the regulations was generally agreed with (73% agreed or agreed with qualifications), there were some suggestions that lower thresholds would be more appropriate for rural areas.

In response to the comments we have reduced three of the thresholds from the draft regulations which will mean that more developments will be classified as major. Thresholds for housing have been lowered from 100 to 50 dwellings, for business and industrial the threshold has lowered from 20,000 sq metres of floorspace to 10,000 sq metres, and the threshold for ‘all other development’ which includes retail floorspace has also halved from 10,000 sq metres to 5,000 sq metres – these reductions are consistent with the views of a number of key stakeholders.

Provision to clarify what types of extensions should be treated as major developments has been added to the regulations, to confirm the position for stakeholders and avoid existing floorspace or site areas being taken into account.

Regulatory Impact Assessment

A regulatory impact assessment has been prepared, but should be read in conjunction with those on separate secondary legislation setting out processes for dealing with different types of planning applications and appeals which are based on the hierarchical approach.

Financial Implications

Financial implications for local authorities and businesses are discussed in the regulatory impact assessment. It is difficult to judge total additional costs involved in creating the hierarchy on local authorities as we cannot predict how many planning applications will be submitted for major developments, which may involve additional procedures linked to pre-application consultation and discussions and potentially further steps of enhanced scrutiny. However, the removal of a volume of minor applications from the system through the proposed extension of householder permitted development rights will reduce workloads of planning authorities. The hierarchical approach promotes efficiency - a more efficient planning system will have benefits for business through allowing applications to be dealt with more swiftly. No adverse impacts on different societal groups have been identified.

The hierarchy is a means of classification, and other regulations set out procedures for the handling of different types of proposal depending on whether it is for a national, major or local development. The introduction of the new hierarchy of developments in the planning system will have limited direct financial implications for the Scottish Government. However, it will provide a means for focussing the direction of resources of agencies, such as SEPA, SNH and Historic Scotland, who have a role in development management on the proposals which are likely to have the greatest economic benefits or environmental impacts.

Directorate for the Built Environment

The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009

Regulatory Impact Assessment

1. Title of proposal

The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

2. Purpose and intended effect

Objectives

2.1 The Regulations are required to implement Part 3 of the Planning etc. (Scotland) Act 2006**1** (the 2006 Act) regarding the new hierarchy of developments.

2.2 The 2006 Act sets the framework for achieving the Scottish Government's aim of delivering a planning system which contributes to the central purpose – increasing the rate of sustainable economic growth. The Scottish Government's intention is for a focus on engagement and scrutiny of the more complex development management proposals, while at the same time streamlining and speeding up processes where possible.

2.3 The hierarchy for planning aims to ensure efficiency in the planning system by providing a means for adopting a more proportionate approach for handling planning applications.

2.4 At the top of the hierarchy are national developments which the 2006 Act defined as those designated in the National Planning Framework. The objective of the regulations is to describe classes of 'major' and 'local' developments, the other 2 components of the hierarchy. This will be the basis of a more proportionate development management system that can deal with different types of development in different ways, appropriate to their respective scale and complexity.

2.5 The hierarchy determines whether a development is classified as national, major or local and this, in turn, has implications for :-

- The way in which the application is processed;
- Its eligibility for processing agreements;
- Requirements for pre-application consultation and a range of enhanced scrutiny provisions; and
- The involvement of Local Review Bodies.

The impacts of these related proposals are discussed in further detail in other RIAs. This RIA focuses on the impact of the classification of developments in the hierarchy.

2.6 This regulatory impact assessment (RIA) is in its final form and takes account of responses received to the 2007 consultation on the planning hierarchy regulations which included a partial RIA.

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1 The Planning etc. (Scotland) Act 2006 http://www.opsi.gov.uk/legislation/scotland/acts2006/pdf/asp_20060017_en.pdf

Background

2.7 The White Paper Modernising the Planning System**2** was published in June 2005. It trailed proposals for reforming the planning system including the introduction of a planning hierarchy for handling different types of development. The White Paper set the context for the 2006 Act which received Royal Assent in December 2006, representing the most significant change to the Scottish planning system in over 60 years. The Act sets out the three categories in the hierarchy of development - national, major and local - and gives Scottish Ministers powers to describe classes of major and local development in regulations. In addition, Ministers have the power within the 2006 Act to direct that a particular local development be dealt with as if it were a major development.

Rationale for Government intervention

2.8 The planning system had become complex and lacked focus through having to deal with competing demands placed on it, from delivering essential infrastructure and promoting investment, to allowing householder improvements, with planning applications for all types of developments treated in essentially the same way.

2.9 Planning performance statistics**3** gathered from local authorities for 2004-2007, provide information on the time taken to determine various categories of development. The statistics show that on average over the three years:

Cases	**Cases determined in under 2 months**	**Cases taking over 4 months**	**Comments**
For all cases	61%	an average of 15%	-
Householder developments	79%	less than 5%	Compared to the average for all cases more cases being determined within the 2 month period and only 5% taking more than 4 months
Proposals for 10 or more dwellings	13%	on average 62%	In contrast for the more major developments, applications tended to take longer to determine
For major business and industry proposals	29%	42%	Evident that they frequently took longer than the statutory 2 month period

2.10 The returns clearly show that major developments take longer to determine than more minor, or household developments. Delays in the system can lead to lack of certainty for applicants and investors, reduce business confidence, damage the reputation of the planning system and impact on growth in the economy.

2.11 The Government Economic Strategy**4** (November 2007) identified five Strategic Priorities required to deliver increasing sustainable economic growth. The Infrastructure Development and Place strategic priority sets a number of key strategic approaches which the Scottish Government will pursue including :-

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2 White Paper *Modernising the Planning System* (2005) http://www.scotland.gov.uk/Publications/2005/06/27113519/35231
3Planning Performance Statistics 2004-2007 http://www.scotland.gov.uk/Publications/2008/01/31114430/0
4 The Government Economic Strategy (November 2007) http://www.scotland.gov.uk/Publications/2007/11/12115041/0

"*A planning and development regime which is joined up, and combines greater certainty and speed of decision making within a framework geared towards achieving good quality sustainable places and sustainable economic growth*."

2.12 One of the aims of the 2006 Act is to identify major developments so they can be project managed and handled efficiently. The 2006 Act requires Scottish Ministers to describe classes of development other than national developments, and assign each class to one or other of the categories of major and local development. Without these regulations, it would not be clear to which class a development belonged and, accordingly, how the new system would work, and which cases it would apply to.

2.13 The new hierarchy allows the planning system to respond proportionately to the different proposals coming before it, allowing developments to be processed and scrutinised depending upon whether they raise issues of national, major or local importance. The hierarchy will enable public bodies to prioritise their resources more effectively.

2.14 The hierarchical approach allows decisions on local matters to be taken at the local level. The proposed extension of permitted development rights (expected during 2009) will mean that very minor developments can be removed from the planning application process, helping to free up resources in the system. For local developments more effective use of delegation of decision making to officers is promoted, and the new provisions for local reviews further emphasise the importance of local decision making. These changes will allow planning authorities to focus on processing applications for major developments which are likely to have significant economic, social or environmental effects and which may attract most interest within the local area.

3. Consultation

Within Government

3.1 The draft regulations have been the subject of discussion and internal consultation within the Directorate for the Built Environment, the Directorate for Planning and Environmental Appeals (DPEA), Transport Scotland and Historic Scotland. Various individual points have been discussed with other relevant parts of the Scottish Government.

Public Consultation

3.2 Extensive consultation exercises were carried out in connection with the Modernising Planning White Paper and, more recently, on the draft hierarchy regulations. As well as publishing consultation papers, meetings were held with key stakeholders and various events were arranged involving a wide range of consultees.

3.3 The responses to the Modernising Planning White Paper were analysed**5** and 137 responses made particular points on the planning hierarchy, of which 93% were positive. The general concept of prioritising the treatment of planning applications into groups was very strongly supported.

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5 Modernising the Planning System Analysis of Responses http://www.scotland.gov.uk/Publications/2005/12/0195339/53401

General Views on the Proposed Planning Hierarchy (Responses to the White Paper)						
Respondent Categories	**Total Responses**		**Positive Views**		**Negative Views**	
	No.	**%**	**No.**	**%**	**No.**	**%**
Local Authorities	22	16%	21	15%	1	1%
Public Bodies	13	9%	13	9%	0	0%
Businesses	40	29%	40	29%	0	0%
Professional & Academic Bodies	26	19%	26	19%	0	0%
Voluntary Sector	32	23%	25	18%	7	5%
Public and Politicians	4	3%	3	2%	1	1%
Total	**137**	100%	**128**	93%	**9**	7%

3.4 Concerns expressed at the time of the White Paper covered operational aspects such as who would determine what class in the hierarchy a given development would fall within, and whether there would be any local discretion. There were also questions about how the boundaries between the different levels in the hierarchy would be defined. These issues are addressed in the secondary legislation and explained in the draft Circular. Scottish Ministers have sought to adopt clear, measurable thresholds to limit the scope for interpretation.

3.5 Some comments were received to the White Paper arguing the hierarchy represented a "considerable centralisation" of power and decision-making in respect of the planning system. However, while Scottish Ministers are seeking to clearly define the classes and thresholds for major development, the purpose of doing so is to free up local capacity to focus on the more complex and significant applications and, importantly, to devolve decision-making, including local reviews, to the local level.

3.6 Since the 2006 Act was passed a number of events and meetings have taken place with stakeholders on aspects of planning modernisation including the hierarchy. These events include a series of regional awareness raising seminars with local authorities, sessions with Homes for Scotland members and with the Scottish Property Federation. In separate meetings with representatives of the Scottish Society of Directors of Planning (SSDP), COSLA and Homes for Scotland suggestions for the potential levels of major development and the proposed approach in relation to regional variation when setting the thresholds have been raised in discussion and informal views received.

3.7 The Planning Hierarchy Consultation Paper**6**, containing draft regulations, was published in November 2007 with a three month consultation period. The Scottish Government received a total of 90 responses from a wide range of interested stakeholder organisations at both national and local level and from a number of individuals. An analysis of the consultation responses**7** is available online.

3.8 The consultation paper included a series of questions seeking stakeholders' thoughts on the:

- number of classes of major development;
- level of the thresholds and criteria for major development;
- prospects for regional variation;

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6 The Planning Hierarchy Consultation Paper http://www.scotland.gov.uk/Publications/2007/12/11104120/0
7 Planning Hierarchy; Consultation Paper – Analysis of Responses
http://www.scotland.gov.uk/Publications/2008/12/02144950/0

- definition of local developments; and
- impacts on business or voluntary sectors and societal groups.

3.9 Generally, there was support for the introduction of the hierarchy for planning as it provided the opportunity for a more proportionate system for dealing with different types of applications.

3.10 Views were split as to whether the right number of classes was proposed. Suggestions for additional classes included aquaculture, minerals, retail and leisure, and infrastructure related developments. In response to the comments the regulations have been amended to include classes on fish farms and minerals, and to specifically refer to mixed use proposals within the 'other development' class.

3.11 The regulations are to set the level of threshold or criteria for each class. The lower the threshold for major development, the greater the number of proposals which would be categorised as such. If the thresholds were at a higher level than noted in the draft regulations, fewer proposals would be categorised as major and would therefore not be subject to certain measures outlined in paragraph 2.5 above such as the enhanced scrutiny as outlined in the **Town and Country Planning (Development Management Procedure) Regulations 2008**.

3.12 Views were mixed as to whether the various thresholds for major development should be higher or lower. Suggestions for lower thresholds came from members of the business sector, primarily due to concerns that they would lose a right of appeal to Scottish Ministers, instead having to go through Local Review Bodies. For example, the Scottish Property Federation commented that they believed a significant number of development applications would not fall within the major developments class and suggested that some degree of revision was needed. The Federation of Small Businesses expressed concern that local developments, which the majority of planning applications submitted by small businesses would fall into, would be seen as lower priority. In response to the views of business we have reduced some of the thresholds from the draft regulations which will mean that more developments will be classified as major.

3.13 The draft regulations advocated that the thresholds would apply consistently across Scotland, and a consultation question was posed asking if consultees agreed with this approach. The majority of respondents (73% agreed or agreed with qualifications) were happy with the proposal to not vary the thresholds to take account of regional differences. It was agreed that not having regional variations would provide simplicity and consistency across Scotland.

3.14 Sixty-one percent of respondents to the draft regulations consultation agreed with the definition of local developments as those which were neither 'national' (as designated in the National Planning Framework) nor 'major', as it would be a logical definition that would avoid complexity. Of those that offered qualified support this was dependent on the thresholds for major developments being set at an appropriate level, typically seeking thresholds to be lowered.

4. Options Considered

Option 1 - Do Nothing

4.1 Option 1 (do nothing and remain with the status quo) is not considered viable as the hierarchy and the three categories of development are included in the 2006 Act. Section 26A(2) of the 2006 Act gives Scottish Ministers the power to describe in regulations classes of development, other than national developments, and assign each to one or other of the classes of major developments or local developments. Scottish Ministers are committed to implementing the Act.

Option 2 – 2007 Draft Regulations

4.2 The draft regulations proposed 7 classes of developments which would be defined as major where the thresholds or criteria set were met or exceeded. Anything below the thresholds or criteria were to be defined as local. The proposed thresholds or criteria for each class were listed in the draft regulations. There was no provision for regional variation.

4.3 The classes and thresholds chosen for the draft regulations were selected to cover the main types of major development. The draft regulations also included a general class for 'all other development' to prevent the number of classes of major development becoming too high and lengthening the regulations. A desk assessment of the scale of existing large scale developments and proposals handled by planning authorities was carried out. Some of the thresholds included in the draft regulations were based on existing, established thresholds. For example, for energy generation it was based on the 20 MW threshold included in Scottish Planning Policy 6.

Option 3 – 2008 Final Regulations

4.4 The consultation on the draft regulations sought views on whether there should be more or less classes, whether the thresholds and criteria were suitable and weather regional variations should apply.

4.5 Following the consultation process the draft regulations were amended to :-

- Add 2 further classes of major developments on fish farms and minerals, and to specifically refer to mixed use proposals within the 'other development' class;
- Reduce the thresholds or criteria for 3 classes – housing, business and general industry, storage and distribution, and the class for 'other development';
- Remove all motorway service areas from the transport and infrastructure projects class; and
- Clarify that existing floor area or site areas should not be included in the calculation of whether a proposed extension is a major development.

4.6 It was decided not to add geographic variations to the threshold and criteria limits as it was felt that this could add complexity and confusion, would be difficult to administer. Additionally some stakeholders had concerns around the potential for distortion of the property market. Although reducing some of the thresholds, for example in housing, was, in

part, a response to concerns about rural areas. The approach is to apply the regulations consistently across Scotland. The definition of local developments remains the same.

5. Costs and benefits

Sectors and groups affected

5.1 The hierarchy regulations will mainly impact on planning authorities and business, although will have varying impacts on most sectors. Local authorities will be required to implement the new planning system on which the hierarchy is based. Developments classed as national and major will be required to go through a different process to those considered to be local. This is described in other regulations, circulars and RIAs on development management procedures and appeals,.

5.2 Essentially, developers will be required to follow enhanced scrutiny measures, in particular pre-application consultation for national and major developments. The more classes, and the lower the thresholds or criteria, the more developments will be classed as major, thus requiring pre-application consultation by developer. Scottish Ministers will also encourage local authorities and statutory consultees to adopt a project managed approach through use of processing agreements in the handling of major developments, which can increase efficiency. Applicants for major developments will also have a guaranteed right to appeal to Scottish Ministers should they not be satisfied with the decision of the planning authority.

5.3 The categorisation of the developments in the hierarchy is itself likely to have a minimal impact on voluntary bodies. Where they are applicants, voluntary bodies are more likely to be promoting local or even minor developments which will, in due course, be removed from planning control (under forthcoming proposals on permitted development rights). If local developments are being promoted, there will be benefits to efficient processing of cases, through increased delegation to local officers. Voluntary bodies may also be involved in the planning process by providing representations on planning applications for different developments which fall within each of the hierarchy categories, or engaging in pre-application discussions with developers. The level of the thresholds for major developments will affect how many applications are in that class and so will link with the level of pre-application consultations they may be invited to engage in.

Costs

5.4 It is difficult to judge the additional costs involved in creating the hierarchy as we cannot predict how many planning applications will be submitted for major developments, nor the level of pre-application consultation developers will undertake. Currently, many promoters of developments that would be considered to be major under the regulations already undertake an informal form of pre-application consultation. In addition, the regulations prescribing the type of pre-application consultation to be undertaken are minimal, leaving it for developers to determine how much, and what type of, consultation they carry out.

5.5 We know from the returns for the Planning Performance Statistics, and from planning authorities which have provided more detailed information about the applications they receive, that we can expect that fewer than 4% of all planning applications will be for “major

developments" as defined under the regulations. However, it is difficult to project the exact numbers of applications in each of the different classes in the hierarchy. The economic downturn in particular may mean that fewer applications for major proposals emerge in the short term.

5.6 If the enhanced scrutiny requirements for major developments had to be applied to a very large number of applications, this could impact on local authority and consultees' resources, and the overall efficiency of the system. It could also have an effect on communities who get involved in pre-application consultation who may exhibit signs of consultation fatigue.

5.7 In addition more major developments would mean fewer proposals could be delegated to officers under section 43A of the 2006 Act which could have a significant impact on local authority Committee time as they would be required to make the decision rather then the planning officer. Less scope for delegation would also mean that fewer cases could go through to the Local Review Body, and so impact on the volume of appeal cases and workload of the Directorate for Planning and Environmental Appeals, to the potential detriment of the efficient processing of appeal cases and examinations of development plans.

5.8 The differences between option 2 (draft regulations) and the preferred option 3 (final regulations) – additional classes and some lower thresholds and criteria - will mean that more developments are likely to be classified as major (resulting in additional costs for business in undertaking enhanced scrutiny and entering into processing agreements) although we do not know how many. However, it is unlikely to be much more then the 4% estimated at the time of the draft regulations, and it should be noted that it was mainly business that requested some of the lower thresholds. This should be balanced, though, against more efficient processing of major applications leading to speedier decisions.

Benefits

5.9 The aim has been to keep the regulations as straightforward as possible to interpret and to limit the number of different categories of major development. Seven classes of major development were proposed in option 2, including six relating to particular types of development and a class for other development. Option 3 contains 2 additional classes which should provide further clarity and ensure that large fish farms and mineral operations above a certain size are dealt with under the appropriate planning processes. The thresholds, or criteria, are expressed in simple terms and are appropriate to the class in question. For example, renewables in MegaWatts, residential in terms of number of dwellings and waste management in terms of tonnes per annum.

5.10 The thresholds and criteria have been selected to ensure there is a focus on those projects which are the most significant. It will also help consultees to focus and prioritise their input to the largest complex or controversial cases to which they can add most value.

5.11 Applying the hierarchy universally across Scotland will provide simplicity and consistency. Thresholds have been reduced partly in response to issues about rural areas. A consistent approach will also help to promote widespread understanding of the operation of the system.

5.12 The definition of local developments is fairly straight forward and has been welcomed as being simple and providing clarity.

6. Small / Micro Firms Impact Test

6.1 The main impact of the regulations will be on those who frequently deal with the planning system. Typically, most small and micro businesses will only deal with the planning system on an occasional basis, although some small family building firms and self-employed architects and agents may have more frequent interactions with planning. All small businesses should benefit from the proposed extension of permitted development rights next year to remove minor developments from planning control. Smaller and micro businesses will typically not be embarking on major developments, although where they do, they will be required to consult with the community on their proposal before they submit it to the local authority.

6.2 The Federation of Small Businesses, while welcoming the introduction of the planning hierarchy expressed concern that local developments (which the majority of planning applications submitted by small businesses will fall into) are seen as lower priority. They noted that domestic applications get processed more quickly than minor non-domestic applications and with *"only 45% being processed within the target period of 8 weeks,"* they were concerned about the impact delays could have on the Scottish economy by constraining the growth of businesses.

6.3 By reducing the threshold for major developments in the final regulations more developments will be classed as major, helping to ensure that more of the projects put forward by small firms receive priority treatment.

7. Legal Aid Impact Test

7.1 These Regulations do not create new rights or responsibilities that could give rise to increased use of legal processes. The regulations will not impact on an individual's right of access to justice through availability of legal aid.

8. Competition Assessment

8.1 These regulations are not considered to have any competition impacts, they are to apply to all developments consistently across Scotland.

9. Test run of business forms

9.1 These regulations do not contain business forms.

10. Enforcement, sanctions and monitoring

10.1 The hierarchy does not attract any statutory sanctions.

10.2 These regulations are part of the wider modernisation of the planning system. We will be monitoring the way planning authorities implement the changes resulting from the 2006 Act and associated secondary legislation including the Town and Country Planning

(Hierarchy of Developments) (Scotland) Regulations 2009. The intention is to review the policy after its first year of operation with a targeted consultation with those using the policy.

11. Implementation and delivery plan

11.1 The regulations will be laid in Parliament in December 2008 with a view to coming into force on 6th April 2009 as one of the first parts of the modernised planning system to be implemented. The procedures and processes for dealing with different types of development are set out in other secondary legislation including on development management procedures, schemes of delegation, local reviews and appeals. A draft Circular on the hierarchy will be available in advance and will be finalised in line with the coming into force of the regulations. It is designed for use by both regulators and businesses.

11.2 The primary responsibility for operating the planning system lies with local and national park authorities. The Scottish Government will work with Local Government to raise awareness of the contribution planning reform can make to sustainable economic growth, and publicise the modernised legal framework, including the hierarchy, within which planning will operate. Agencies, the private sector and the RTPI will participate actively in this programme of work in delivering reform and culture change. The audience for this will include planning schools, front line staff and elected members involved in planning policy decision-making.

12. Post-implementation Review

12.1 These regulations are part of the wider modernisation of the planning system. The Common Statement *Delivering Planning Reform*[8] sets out the commitment that the Scottish Government will provide opportunities where issues with the new system can be discussed and solutions identified and communicated more widely. The intention is to review the policy through targeted consultation after its first year of operation to ensure it is delivering the intended benefits, is fostering good partnership working, and no administrative or legal barriers are reducing the effectiveness of its impact. We will continue to monitor its effectiveness after that.

12.2 Major new regulations have to be monitored within three years of coming into force. There is scope to amend the classes or thresholds at a later date if necessary, to ensure the efficient operation of the system.

13. Summary and recommendation

Summary

13.1 The Hierarchy Regulations describe and assign classes of development to the categories of major and local developments. This forms an important element of the reformed planning system which is more proportionate and can deal with different types of development in different ways appropriate way to their respective scale and complexity. This will allow engagement and scrutiny and resources to be focussed on the more complex development management proposals and provides greater opportunity for streamlining processes for different types of planning applications.

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8 Delivering Planning Reform (Nov 2008)http://www.scotland.gov.uk/Publications/2008/11/05100742/0

Recommendation

13.2 It is recommended that option 3 be implemented. This option supports the Scottish Government's aim for a modernised planning system. The regulations are necessary to ensure there is a clear and consistent approach for classifying developments into the categories in the hierarchy, and are a requirement of the 2006 Act. It is important the hierarchy is put in place as it has implications on the application of other pieces of secondary legislation on development management, schemes of delegation, local reviews and planning appeals.

13.3 In view of the above, it is recommended that the Regulations are introduced into Scottish law.

14. Declaration and Publication

I have read the Regulatory Impact Assessment and am satisfied that the benefits justify the costs.

Signed

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Date

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