EXECUTIVE NOTE TO

THE PLANNING ETC. (SCOTLAND) ACT 2006 (COMMENCEMENT NO. 4) ORDER 2008 SSI/2008/191 (C.18)

1. This is the fourth commencement order relating to the 2006 Planning Act. It commences provisions allowing Ministers to exempt particular planning authorities from the requirement to notify Historic Scotland of their intention to grant listed building consent. It also amends the third commencement order to correct an error in that order.

Background

2. The Planning etc. (Scotland) Act 2006 (the 2006 Act) received Royal Assent on 20th December 2006. In the main it amends the principal Town and Country Planning (Scotland) Act 1997 (the 1997 Act)), but it also amends the listed buildings Act (the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997).

3. The Listed Building and Conservation Areas Act sets out in Section 12 the arrangements for planning authorities to notify Scottish Ministers (in practice through Historic Scotland (HS)) about their intention to grant listed building consent. This can lead to unnecessary double-handling of cases, and consequently to delay. Section 13 allows Ministers to disapply these provisions, meaning that planning authorities would not have to notify Scottish Ministers when they intend to give listed building consent, except where demolition was proposed. However, that legislation allowed the provision to be disapplied for all planning authorities or none. Not all planning authorities have the necessary experience and capacity to do this work without involving HS.

4. The 2006 Act in section 55(2) allows Ministers to delegate selectively to individual planning authorities. This order commences this part of the 2006 Act.

5. The Planning etc. (Scotland) Act 2006 (Commencement No. 3) Order 2008 was made on 22 April 2008. It mistakenly referred to ‘strategic development plan authorities’ instead of ‘strategic development planning authorities’ which is the correct term from the 2006 Act. This commencement order also therefore amends the Commencement No. 3 Order to substitute the correct wording.

Policy Objectives

6. It is the intention to use the negotiation of Joint Working Agreements (announced by the Minister for Europe, External Affairs and Culture) to determine which planning authorities could have the notification provisions disapplied, and when. The pilot scheme was announced by the Minister and this will commence as soon as the appropriate arrangements can be agreed with the pilot authorities. The proposal does not add any burden to the planning authority: it removes where appropriate a burden of unnecessary supervision by HS and double-handling of cases by both planning authorities and HS.

Financial Effects

7. The opportunity to remove double-handling of applications for listed building consent should produce efficiency savings within HS and local authorities, and should allow decision notices to be issued to applicants more quickly in some cases.

Impacts

This order has not individually been subject to formal assessment of its regulatory, equality or environmental impacts, as its effect is only to commence a provision of the 2006 Act, which was itself subject to the necessary impact assessments.

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