SCOTTISH STATUTORY INSTRUMENTS

2024 No. 253

TOWN AND COUNTRY PLANNING

The Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024

Made - - - -	*19th September 2024*
Laid before the Scottish Parliament	*23rd September 2024*
Coming into force - -	*5th December 2024*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 36 and 54A of, and paragraphs 1(3), 8(1)(a) and (2), 9(2), 11(1), 19 and 22 of schedule 5A of, the Town and Country Planning (Scotland) Act 1997(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024 and come into force on 5 December 2024.

Interpretation

2. In these Regulations—

"the Act" means the Town and Country Planning (Scotland) Act 1997,

"community council" means a community council established under Part IV of the Local Government (Scotland) Act 1973(**b**),

"neighbouring land" means an area or plot of land (other than land forming part of a road) which, or part of which, is conterminous with or within 20 metres of the boundary of the area in respect of which the planning authority propose to make a masterplan consent area scheme,

"period for representations" is the period specified in regulation 4(5),

"road" has the same meaning as in section 151 of the Roads (Scotland) Act 1984(**c**).

Consultation on possible proposals for a masterplan consent area scheme

3.—(1) The requirements as to consultation for the purposes of paragraph 8(1)(a) of schedule 5A of the Act are specified in this regulation.

(2) The planning authority must hold at least two public events where members of the public may make comments to the planning authority in respect of proposals to make a masterplan consent area scheme.

(**a**) 1997 c. 8. Sections 54A to 54F and schedule 5A were inserted by section 15 of the Planning (Scotland) Act 2019 (asp 13).
(**b**) 1973 c. 65.
(**c**) 1984 c. 54. Section 151 was relevantly amended by the New Roads and Street Works Act 1991 (c. 22).

(3) The planning authority must publish on the internet—

(a) a map showing the area in respect of which the planning authority are considering making a masterplan consent area scheme, and

(b) a notice containing the information specified in paragraph (5).

(4) The planning authority must send a notice containing that information to the community council, if any, for an area in respect of which the planning authority are considering making a masterplan consent area scheme,

(5) The information is—

(a) a description in general terms of the development in respect of which the planning authority are considering the formulation of proposals for a masterplan consent area scheme,

(b) a description of the area in respect of which the planning authority are considering making a masterplan consent area scheme and a statement that that a map showing that area is to be published on the internet under paragraph (3)(a),

(c) information as to how, to whom and by what date representations may be made in respect of proposals to make a masterplan consent area scheme,

(d) the date and place of the public events.

(6) Paragraphs (2) and (5)(d) only apply where the planning authority consider that development in respect of which the planning authority are considering the formulation of proposals for a masterplan consent area scheme may belong to the categories of national developments or major developments.

(7) A public event held by the planning authority in accordance with paragraph (2) is not to be held earlier than 7 days after notification of the date and place of the public event is given under paragraph (5)(d) and the final public event must be held at least 14 days after the first public event.

(8) The planning authority must at the final public event provide feedback to members of the public in respect of comments received by the planning authority as regards proposals to make a masterplan consent area scheme.

(9) For a representation to be treated as valid for the purposes of paragraph 8(1)(b) of schedule 5A of the Act it must be made on or before the date specified in the notice in accordance with paragraph (5)(c).

Consultation on proposals for a masterplan consent area scheme

4.—(1) For the purposes of paragraph 9(1)(a) of schedule 5A of the Act, the requirements for publicising and inviting representations in relation to proposals for making a masterplan consent area scheme are specified in this regulation and the schedule to these Regulations.

(2) The planning authority must publish on the internet—

(a) a copy of the proposed masterplan consent area scheme,

(b) a notice containing the information specified in paragraph (4).

(3) The planning authority must send a notice containing that information—

(a) to any person (other than the planning authority) who is an owner of land to which the proposed masterplan consent area scheme relates,

(b) where there are premises situated on neighbouring land to which the notice can be sent, to the owner, lessee or occupier of those premises,

(c) to persons, authorities and bodies in accordance with the schedule.

(4) The information is—

(a) a statement that the proposed masterplan consent area scheme has been prepared and how it may be inspected,

(b) a brief description of the content and purpose of the proposed masterplan consent area scheme,

(c) details of how further information may be obtained regarding the proposed masterplan consent area scheme, including that it is to be published on the internet under paragraph (2)(a),

(d) a statement that any person wishing to do so may make representations on the content of the proposed masterplan consent area scheme before the end of the period for representations, and

(e) information as to how and to whom any representations should be made including information stating when the period for representations expires.

(5) The period for representations for the purposes of paragraph 9 of schedule 5A of the Act is the period of 30 days beginning with the latest date on which notice is published under paragraph (2)(b) or is sent under paragraph (3).

(6) A notice required to be sent to the owner, lessee or occupier of premises under paragraph (3)(b) may be sent by sending the notice to the premises addressed to "the Owner, Lessee or Occupier".

Consideration of representations: hearings

5.—(1) The circumstances in which a planning authority must hold a hearing under paragraph 11(1) of schedule 5A of the Act are that the proposed masterplan consent area scheme would authorise development belonging to the category of national developments.

(2) For the purposes of paragraph 11(1) of schedule 5A of the Act the persons who must be given an opportunity to appear before and be heard by a committee of the planning authority at a hearing under that paragraph are any person who is an interested party.

(3) In this regulation "interested party" means a person from whom the planning authority received representations before the end of the period for representations (and which were not subsequently withdrawn) in response to a notice published or sent in accordance with regulation 4 in connection with the proposed masterplan consent area scheme.

Information to be included in a masterplan consent area scheme

6. Where a masterplan consent area scheme specifies any condition, limitation or exception to which the scheme is subject the scheme must also set out the reasons for specifying such condition, limitation or exception.

Publication of masterplan consent area scheme and notification of decision

7.—(1) Where a masterplan consent area scheme is made by a planning authority, the planning authority must—

(a) publish on the internet a copy of the scheme and a notice of the decision to make the scheme containing the information specified in paragraph (2) ("the decision notice"), and

(b) give notice of the making of the scheme in accordance with paragraph (3).

(2) The information is—

(a) a statement that the masterplan consent area scheme has been made and how it may be inspected,

(b) the main reasons and considerations on which the decision is based including reasons for any conditions, limitations or exceptions,

(c) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures,

(d) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(3) Notification of the making of the scheme is to be by publishing in a local newspaper circulating in the area and on the internet a notice containing—

(a) a statement that the masterplan consent area scheme has been made

(b) information as to how the scheme and the decision notice may be inspected.

(4) The planning authority must make a copy of the masterplan consent area scheme available for inspection at an office of the planning authority.

Alteration of a masterplan consent area scheme

8.—(1) Regulations 2 to 4 and 6 and 7 apply to the alteration of a masterplan consent area scheme by a planning authority as they apply to the making of a masterplan consent area consent area scheme by a planning authority with the modifications specified in paragraphs (2) to (4).

(2) References to—

(a) proposals to make a masterplan consent area scheme are treated as if they were references to proposals to alter a masterplan consent area scheme,

(b) a proposed masterplan consent area scheme are treated as if they were references to a proposed alteration to a masterplan consent area scheme,

(c) to the making of a masterplan consent area scheme are treated as if they were references to the alteration of a masterplan consent area scheme.

(3) Regulation 3 applies as if paragraphs (2), (5)(d), (6), (7) and (8) were omitted.

(4) Regulation 7 applies as if—

(a) for paragraph (2)(a) there were substituted—

"(a) a statement that the masterplan consent areas scheme has been altered and how the scheme as altered may be inspected,",

(b) in paragraph (3)(b) the reference to the masterplan consent area scheme were a reference to the masterplan consent area scheme as altered.

Excluded development: European sites

9.—(1) No masterplan consent area scheme grants authorisation for development which—

(a) is likely to have an adverse effect on a European site in Great Britain or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of the site.

(2) In this regulation—

"European site" means a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994(**a**),

"European offshore marine site" means a European offshore marine site within the meaning of regulation 18 (meaning of European offshore marine site) of the Conservation of Offshore Marine Habitats and Species Regulations 2017(**b**).

Amendment of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

10.—(1) The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 are amended in accordance with paragraph (2).

(2) In schedule 2 (registers under section 36(1)) after paragraph 5 (certificates of lawful use or development) insert—

(**a**) S.I. 1994/2716 as relevantly amended by S.S.I. 2004/475, S.I. 2010/490, S.S.I. 205/249 and S.S.I. 2019/113.
(**b**) S.I. 2017/1013 as relevantly amended by S.I. 2019/579.

"**5A.** The register kept by the planning authority must also contain the following information in respect of every masterplan consent area scheme made, or proposed to be made, in respect of land in the district of the planning authority—

(a) a copy of the proposed scheme or proposed alteration to a scheme published under regulation 4 of the Town and Country Planning (Masterplan Planning (Masterplan Consent Areas) (Scotland) Regulations 2024,

(b) a copy of the decision notice published under regulation 7 of those Regulations,

(c) a copy of the masterplan consent area scheme made, or as altered, under paragraph 4, 15 or 16 of Schedule 5A of the Act.".

IVAN MCKEE
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
19th September 2024

SCHEDULE

Regulation 4(3)(c)

The planning authority must give notice of a proposed masterplan consent area scheme to a person, authority or body mentioned in a paragraph below in the circumstances specified in that paragraph.

1. SEPA where—

(1) the development to be authorised by the proposed masterplan consent area scheme is likely to result in a material increase in the number of buildings at risk of being damaged by flooding, or

(2) that development consists of or includes—

(a) fish farming,

(b) mining operations,

(c) the carrying out of building or other operations or use of land for the purposes of providing or storing mineral oils and their derivatives,

(d) the carrying out of building or other operations (other than the laying of sewers, the construction of pump-houses in a line of sewers, the construction of septic tanks and cesspools serving single dwellinghouses, single caravans or single buildings in which not more than 10 people will normally reside, work or congregate, and works ancillary thereto) or use of land for the retention, treatment or disposal of sewage, trade-waste, or effluent,

(e) the carrying out of works or operations in the bed or on the banks of a river or stream,

(f) the use of land as a cemetery, or

(g) the use of land for the deposit of any kind of refuse or waste, including slurry or sludge.

2. NatureScot where—

(a) the development to be authorised by the proposed masterplan consent area scheme may affect a site of special scientific interest, or

(b) that development consists of or includes the winning and working of peat.

3. The Health and Safety Executive where the development to be authorised by the proposed masterplan consent area scheme is within an area which has been notified to the planning authority by the Health and Safety Executive for the purpose of this provision or for the purposes of paragraph 3 of schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances (otherwise than on a relevant nuclear site) and which involves the provision of—

(a) residential accommodation,

(b) more than 250 square metres of retail floor space,

(c) more than 500 square metres of office floor space, or

(d) more than 750 square metres of floor space to be used for an industrial process, or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.

4. The Office for Nuclear Regulation where the development to be authorised by the proposed masterplan consent area scheme is within an area which has been notified to the planning authority by the Office for Nuclear Regulation for the purpose of this provision or for the purposes of paragraph 3A of schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances on a relevant nuclear site and which involves the provision of—

(a) residential accommodation,

(b) more than 250 square metres of retail floor space,

(c) more than 500 square metres of office floor space, or

(d) more than 750 square metres of floor space to be used for an industrial process, or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.

5. NatureScot, the Health and Safety Executive and SEPA where the development to be authorised by the proposed masterplan consent area scheme—

(a) involves the siting of new establishments,

(b) consists of modifications to establishments covered by Article 11 of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC (OJ L 197, 24.7.2012, p.1), as Directive 2012/18/EU had effect immediately before IP completion day, or

(c) includes transport routes, locations of public use and residential areas in the vicinity of an establishment, where the siting or development may be the source of or increase the risk or consequences of a major accident,

and, in relation to development falling within paragraph (c), any person who is, according to the register held by the planning authority under regulation 41 of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, the person who is in control of the land on which the establishment is located.

6. The Scottish Ministers, where the development to be authorised by the proposed masterplan consent area scheme—

(a) would be within 67 metres of the middle of, or is development comprising the formation, laying out or alteration of any means of access to—

(i) a trunk road,

(ii) a proposed trunk road or a proposed special road, being a road the route of which is shown as such in the development plan, or in respect of which the Scottish Ministers have given notice in writing to the planning authority of their proposal, together with the maps or plans sufficient to identify the proposed route of the road,

(iii) any road which is comprised in the route of a special road to be provided by the Scottish Ministers in accordance with a scheme under section 7 of the Roads (Scotland) Act 1984 relating to special roads, and which has not for the time being been transferred to them, or

(iv) any road which has been or is to be provided by the Scottish Ministers in pursuance of an Order under the provisions of that Act relating to trunk roads and special roads and has not for the time being been transferred to any roads authority,

(b) would be likely to result in a material increase in the volume or a material change in the character of traffic entering or leaving a trunk road,

(c) consists of or includes the winning and working of peat, or

(d) is marine fish farm development.

7. The community council, if any, within whose area the development to be authorised by the proposed masterplan consent area scheme is to take place.

8. The Coal Authority where the development to be authorised by the proposed masterplan consent area scheme consists of—

(a) the erection of a building, other than an alteration, extension or re-erection of an existing building or the erection of a building of a temporary character, or

(b) the provision of a pipeline, in an area of coal working or former or proposed coal working notified by the Coal Authority to the planning authority.

9. Any adjoining planning authority, where the development to be authorised by the proposed masterplan consent area scheme is likely to affect land in the district of that authority

10. Network Rail Infrastructure Limited or any other railway undertakers likely to be affected where—

(a) some part of the development to be authorised by the proposed masterplan consent area scheme is to be situated within 10 metres of a railway line forming part of the national railway network, or

(b) the development to be authorised by the proposed masterplan consent area scheme is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway.

11. The roads authority concerned, where the development to be authorised by the proposed masterplan consent area scheme involves—

(a) the formation, laying out or alteration of any means of access to, or is likely to create or attract traffic which will result in a material increase in the volume of traffic entering or leaving, a road (other than a trunk road) for which the planning authority are not also the roads authority, or

(b) the formation, laying out or alteration of any means of access to land affording access to a toll road.

12. The Theatres Trust where the development to be authorised by the proposed masterplan consent area scheme involves any land on which there is a theatre as defined in the Theatres Trust Act 1976(**a**).

13. Scottish Water where the development to be authorised by the proposed masterplan consent area scheme is likely to require a material addition to or a material change in the services provided by that authority.

14. A district salmon fishery board where the development to be authorised by the proposed masterplan consent area scheme consists of fish farming.

15. The Scottish Ministers and the Secretary of State where development to be authorised by the proposed masterplan consent area scheme is marine fish farm development which may affect a site designated as a controlled site under section 1 of the Protection of Military Remains Act 1986(**b**).

16. The Crofting Commission where the development to be authorised by the proposed masterplan consent area scheme may have an adverse effect on the continued use of land for crofting.

17. sportscotland where the development to be authorised by the proposed masterplan consent area scheme is likely to—

(a) result in the loss of an outdoor sports facility,

(b) prejudice the use of an existing outdoor sports facility for that purpose, or

(c) prevent the use of land, which was last used as an outdoor sports facility, from being used again for that purpose.

18. Historic Environment Scotland, where development to be authorised by the proposed masterplan consent area scheme—

(a) is situated within 800 metres from any Royal Palace or Park, and might affect the amenities of that Palace or Park,

(b) would include works—

(i) for the demolition of a listed building,

(**a**) 1976 c. 27.
(**b**) 1986 c. 35.

(ii) for the alteration or extension of a listed building,

(iii) for the demolition of a building in a conservation area,

(c) may affect—

(i) a World Heritage Site,

(ii) a historic garden or designed landscape,

(iii) the site of a scheduled monument or its setting,

(iv) the setting of a category A listed building, or

(v) a historic battlefield.

Interpretation of Schedule

19.—(1) In this Schedule—

"category A listed building" means a listed building specified as being category A in a list of buildings compiled or approved under section 1 of the Listed Buildings Act(**a**) (listing of buildings of special architectural or historic interest),

"cemetery" includes a burial ground or any other place of interment for the dead,

"conservation area" means an area for the time being designated under section 61 of the Listed Buildings Act (designation of conservation areas),

"district salmon fishery board" has the meaning assigned to it by section 40 of the Salmon Act 1986(**b**),

"historic battlefield" means a battlefield which is included in the inventory of battlefields compiled and maintained under section 32B of the Ancient Monuments and Archaeological Areas Act 1979(**c**),

"historic garden or designed landscape" means a garden or landscape which is included in the inventory of gardens and designed landscapes compiled and maintained under section 32A of the Ancient Monuments and Archaeological Areas Act 1979 (inventory of gardens and designed landscapes),

"listed building" means a listed building within the meaning of section 1(4) of the Listed Buildings Act,

"Listed Buildings Act" means the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997(**d**),

"marine fish farm development" means the placing or assembly of any equipment in marine waters for the purposes of fish farming ("equipment", "fish farming" and "marine waters" having the same meaning as in section 26(6) of the Act (meaning of development)) and any material change of use of equipment so placed or assembled,

"NatureScot" means Scottish Natural Heritage,

"outdoor sports facility" means land used as—

(a) an outdoor playing field extending to not less than 0.2ha used for any sport played on a pitch,

(b) an outdoor athletics track,

(c) a golf course,

(d) an outdoor tennis court, other than those within a private dwelling, hotel or other tourist accommodation, and

(e) an outdoor bowling green,

(**a**) 1997 c. 9. Sections 1 and 61 are amended by the Historic Environment Scotland Act 2014 (asp 19).
(**b**) 1986 c. 62.
(**c**) 1979 c. 46. Sections 32A and 32B were added by the Historic Environment (Scotland) Act 2011 (asp 3) and amended by the Historic Environment Scotland Act 2014 (asp 19).
(**d**) 1997 c. 9.

"relevant nuclear site" means a site which is—

(a) a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013(**a**)),

(b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998(**b**)),

(c) a new nuclear build site (within the meaning given in regulation 2A of those 1998 Regulations),

"roads authority" has the same meaning as in section 151 of the Roads (Scotland) Act 1984,

"SEPA" means the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995(**c**),

"scheduled monument" has the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979(**d**),

"site of special scientific interest" has the same meaning as in section 58(1) of the Nature Conservation (Scotland) Act 2004(**e**),

"slurry" means animal faeces and urine (whether or not water has been added),

"special road" means a road provided or to be provided in accordance with a scheme under section 7 of the Roads (Scotland) Act 1984,

"sportscotland" means the Scottish Sports Council,

"toll order" has the same meaning as in Part II of the New Roads and Street Works Act 1991(**f**),

"toll road" means a road which is the subject of a toll order,

"trunk road" means a road or proposed road which is a trunk road within the meaning of section 151 of the Roads (Scotland) Act 1984 that is to say, a road which is a trunk road by virtue of section 5 of that Act or of an Order or direction under that section or section 202 of the Act,

"World Heritage Site" means a site included in the World Heritage List kept under article 11(2) of the Convention concerning the Protection of the World Cultural and Natural Heritage adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation at Paris on 16 November 1972(**g**).

(2) Expressions which are used in paragraph 4 and in Council Directive 96/82/EC of the European Council on the control of major accident hazards involving dangerous substances have the same meaning in that paragraph as in that Directive, as it had effect immediately before IP completion day.

(**a**) 2013 c. 32.
(**b**) S.I. 1998/494.
(**c**) 1995 c. 25.
(**d**) 1979 c. 46. Section 1 is amended by the Historic Environment Scotland Act 2014 (asp 19).
(**e**) 2004 asp 6 as amended by section 37(4)(a) of the Wildlife and Natural Environment (Scotland) Act 2011 (asp 6).
(**f**) 1991 c. 22.
(**g**) See command paper 9424.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the preparation of masterplan consent area schemes under schedule 5A of the Town and Country Planning (Scotland) Act 1997 ("the Act").

In terms of part 3 of schedule 5A of the Act, before making a masterplan consent area scheme a planning authority must consult in accordance with paragraph 8 of schedule 5A before formulating their proposals for the scheme and then also consult on their proposals in accordance with paragraphs 9 and 10. Regulation 3 sets out requirements as to consultation under paragraph 8. This requires the planning authority to notify the community council and to publish a map of the area of the masterplan consent area along with information about the development which the planning authority may be permitted by the scheme and how representations may be made about the scheme. If that proposed development may belong to categories of major or national developments then at least two public events must be held.

Regulation 4 and the schedule to the Regulations set out the requirements under paragraph 9 of schedule 5A for publicising and inviting representations in relation to proposals to make a masterplan consent area scheme. Regulation 4 prescribes the period for representations. The planning authority must publish a copy of the proposed scheme and information as to its content and purpose and how representations may be made. In addition notice of the scheme is to be given to owners and to relevant bodies in accordance with the provisions of the schedule.

Regulation 5 sets out the circumstances in which interested parties are to be entitled to appear before a committee of the planning authority to be heard in relation to the scheme. The prescribed circumstances are that the proposed scheme would authorise development belonging to the category of national developments.

Regulation 6 requires a masterplan consent area scheme to include reasons for the imposition of any conditions to which it is subject. Regulation 7 sets out the requirements for publication of the making of a masterplan consent area scheme including information as to how it may be inspected. Regulation 8 makes provision as to how the procedures apply to the alteration of a masterplan consent area scheme. Regulation 9 provides that a scheme does not grant authorisation for development which is likely to have an adverse effect on a European site or a European offshore marine site and is not directly connected with or necessary to the management of the site.

Regulation 10 amends the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 so as to provide to information concerning a masterplan consent area scheme to be contained on the register.

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£8.14

http://www.legislation.gov.uk/id/ssi/2024/253

ISBN 978-0-11-106091-9

