

SESA is the trade association for Scotland's waste and secondary resource management industry. An efficient and effective planning process is essential to deliver the one million tonnes of new treatment capacity that is required by 2010 to comply with the EU Landfill Directive.

SESA welcomes the introduction of a structured mechanism within the planning system which allows the public, regulators and applicants to input into the planning decision making process in a systematic manner. The proposals set out in the PAN are constructive.

SESA recognises that people and communities need to feel part of the decision making process and SESA Members often exceed their statutory obligations to consult both before and during the planning process, for instance through site liaison committees or establishing partnership projects with local groups. Furthermore, we have consistently encouraged local communities to take greater responsibility for the waste that they produce.

SESA recognises that the Scottish Executive does not wish to be prescriptive about the structures of community engagement and we accept that there is no ideal model to suit all cases. However there would be clear benefits if the Scottish Executive was to provide more targeted information to the public to explain the planning process, and how they may participate in the process.

#### **Community Engagement in Development Management**

Whilst SESA agrees that pre-application consultation is appropriate for large scale waste management development, such as those that require an EIA, we note that *development significantly contrary to the development plan* would also trigger the requirement for pre-application consultation. However the term "significant" could cause confusion and we suggest that the wording of paragraph 38 is changed to simply state that *development contrary to the development plan* will require the applicant to consult. Alternatively, the Scottish Executive should clarify development which is "significantly contrary" to the development plan to enable applicants to understand when and why pre-application consultation is required.

Furthermore, in keeping with the Scottish Executive's drive towards up-to-date development plans, the reference in this context should be clearly limited to development plans which are 'current'.

Further guidance is needed on the requirement to submit a report of the pre-application consultation alongside the planning application. Failure to submit a report with the application should not be grounds for refusing the application. 'Consultees' for the purpose of pre-application consultation – rather than statutory consultees, could refuse to engage in the consultation process simply as a means of delaying submission of the planning application.

Therefore, we await clarification on how the pre-application consultation report, once submitted, would be used by planners in the decision making process and what weight would be accorded to its content.

SESA's Members often actively engage with local communities at an early stage in the development planning process and therefore recognise a role for pre-application consultation.

However, further clarification on this process is required beyond that provided in the guiding principles set out in paragraphs 44 to 54, and the checklist of paragraph 39 before SESA could comment on the likely implications on an applicant's resources as a result of these proposed changes.

While it is reasonable for the applicant to list the parties consulted, or attempted to consult, it is essential that the Scottish Executive also indicates the parties that could reasonably be expected to be consulted, and provides an indication of what might demonstrate an adequate level of consultation. Crucially, we seek clarification of the grounds on which a planning authority could refuse to register an application, where "consultation is felt to be inadequate", and what recourse is available following continued refusal to register an application.

### **Good Neighbour Agreements**

The Executive's proposals for the introduction of Good Neighbour Agreements on a voluntary basis may provide effective engagement of communities, where there is an identified need and where planning conditions or other agreements are not deemed to have adequately addressed the needs of the local community. However, it is likely that if other provisions of the Planning Bill are properly implemented there would be little need for Good Neighbour Agreements. Pre-application consultation with communities would occur from the outset of a development proposal, and there would be better enforcement of planning conditions by local authorities.

However, if the Scottish Executive is minded to include provisions for Good Neighbour Agreements, we suggest the content of these Agreements should only be determined once a development has received planning permission. It would be inappropriate for the completion of a Good Neighbour Agreement to form a condition of planning consent, to be satisfied prior to development commencing or indeed for the grant of consent to be conditional on the Agreement being signed.

The Scottish Executive should also note that the current regulatory regimes governing SESA Member's activities already requires compliance with pollution prevention control permit conditions relating to amongst others, the level of dust, odour and noise emitted from the site. The results of such monitoring are available through SEPA's Pollution Inventory.

### **Glossary**

SESA notes that Good Neighbour Agreements has been included and defined in the glossary without having been formally approved as yet, as an element of the planning system. Local planning authorities may feel inclined to require such agreements without a legal basis to do so.

### **Review of PAN**

SESA notes many references throughout the draft PAN that arrangements for community engagement in the planning process may be subject to change as the Planning Bill progresses through Parliament. Clarification is required on the status of the PAN following relevant amendments of the Bill.