

DRAFT REGULATIONS ON DEVELOPMENT PLANNING  
RESPONSE OF THE SCOTTISH ENVIRONMENTAL SERVICES ASSOCIATION

The Scottish Environmental Services Association ("SESA") is the sectoral trade association representing Scotland's managers of waste and secondary resources. SESA's Members seek to align economic and environmental sustainability through delivering compliance with relevant waste and environmental legislation.

An effective planning system is a crucial driver for Scotland to develop a resource efficient economy. To process and treat waste in different ways, major investment is required by our industry. To make that investment our industry requires a clear and precise planning system.

SESA is concerned that planning authorities often fail to adequately account for the need for new waste management infrastructure through the development plan process. A 2005 report prepared for the Scottish Executive noted that only 21% of planning authorities had fully promoted the waste management objectives of the Area Waste Plans through the development plan process. This report was updated in June 2007 and whilst some progress was noted there is still a need to achieve a better fit between national waste management objectives and development plans. This sentiment was reflected in SPP10 – *Planning for Waste Management*, whilst Audit Scotland's report *Sustainable Waste Management* noted that the 2013 landfill Directive target was likely to be missed as local authorities lacked the organisational capacity to ensure residual waste treatment infrastructure was delivered through the planning process.

SESA therefore supports reforms to the process of development plan preparation and urges planning authorities to state the overall requirement for new waste management capacity to meet the needs of all waste producers. The policies of development plans should then outline how the identified capacity requirements will be delivered.

**Q1 Are you satisfied that the procedures set out in the draft regulations for adopting development plan schemes will adequately ensure that planning authorities have proper programmes in place for the review of their plans, including their proposals for consultation and public involvement?**

SESA welcomes the inclusion of a timetable for development plan completion and suggests the regulations specify sanctions that are likely to be imposed for non-completion of a development plan within the specified timeframe.

It is likely planning authorities will be required to produce a number of plans covering the local area and to facilitate the ease and timely production of such, SESA suggests the regulations specify that development plans could be prepared simultaneously.

Consultation and public involvement during the preparation of plans must be sufficiently targeted to enable the timely production of development plans which are fit for purpose and facility the prompt delivery waste management infrastructure to a defined timetable which enables Scotland to comply with EU waste law- particularly the Landfill Directive.

**Q2 Do the regulations on SDP content need to say more to ensure that SDPs are effective tools for leading and managing change in the largest city-regions?**

The monitoring statement (and subsequent main issues report) must contain a report of the previous plan's ability to deliver new waste management infrastructure.

SESA suggests the Scottish Government should stipulate the following indicators:

(a) new waste management capacity, by type and by strategic development planning authority.

(b) amount of municipal waste arising and managed by:

(i) management type; and,

(ii) the percentage each management type represents of the total waste managed;  
by strategic development planning authority.

(c) amount of commercial and industrial waste arising and managed by:

(i) management type; and,

(ii) the percentage each management type represents of the total waste managed;  
by strategic development planning authority.

(d) amount of construction and demolition waste arising and managed by:

(i) management type; and,

(ii) the percentage each management type represents of the total waste managed;  
by strategic development planning authority.

Planning authorities should also collect information on:

-the waste management capacity lost each year; and

-the take up of sites allocated in the strategic development plan;

The Scottish Government must clearly define new waste management capacity. SESA suggests this should be defined as:

- a development proposal which has received planning permission; and

- received a PPC permit/waste management licence.

**Q3 Do you support the approach to listing the key topics that need to be covered by policies at the strategic level and do you support the topics listed?**

The revisions to the planning system proposed by the Planning Bill are perhaps the final opportunity to ensure development plans adequately reflect the waste management needs of Scotland's communities and deliver waste management facilities in time to ensure Scotland's compliance with EU waste law.

For Strategic Development Plans to be an effective tool, the policies on the location of key development (housing, economic and retail development and infrastructure improvements) must be extended to include provision towards waste management development.

Such policies should identify the overall requirement for waste management capacity in the strategic development plan area and indicate how this requirement will be met by planning authorities through local development plans.

**Q4 Is the move to an accurate map base for SDP Proposals Maps workable?**

SESA supports this proposal.

**Q5 Do you support the continuing primacy of the written text of the SDP (or LDP) or would a move to primacy for the Proposals Map help to strengthen the spatial dimension of the plan?**

SESA supports primacy of the written text over a proposals map. Furthermore, the draft regulations should inform planning authorities of the primacy of plan policies over written text in a plan.

**Q6 Do you support the list of information and considerations that the SDPA must take into account when preparing a SDP or main issues report?**

Yes, SESA particularly supports reference to the National Planning Framework and the national waste management plan.

One of the main elements of the draft National Planning Framework is to *facilitate the achievement of waste management targets*. Strategic Development Plans must therefore provide the strategic context for facilitating waste management development through the planning system - which guides local development plans to identify suitable sites.

**Q7 Are there any other matters which the regulations should require always to be included in LDPs, or on the Proposals Map?**

The content appears appropriate.

**Q8 Are there any other information sources or considerations that planning authorities should be required to have regard to in preparing LDPs and how can planning authorities demonstrate that they have complied with these requirements?**

The Planning Act states that planning authorities must exercise their function with the objective of achieving sustainable development. The policies and proposals for waste management within local development plans should therefore ensure sufficient opportunities for the provision of waste management facilities in appropriate locations - including for waste disposal.

The regulations must provide planning authorities with flexibility to adopt either a site-specific or criteria based approach to the identification of sites for waste management development, or a mixture of both.

Key criteria include: proximity to existing waste management facilities and waste sources; the size of the site; the requirements of different waste management facilities; and environmental constraints.

Local development plans should not prejudice sites emerging in response to, for example, the development of new technologies where they do not conflict with those sites that have been allocated.

Planning authorities should be required to safeguard waste management sites allocated in local development plans from non-waste developments and should list the criteria and the procedures it has followed where it intends to identify waste management sites in the plan. Sites for waste management development should not be prioritised.

SESA suggests planning authorities should have regard to the following list of information when preparing local development plans:

Planning Policy Statements

All relevant Scottish Planning Policy Statements should advise planning authorities that, when it considers a planning application, it should attach appropriate weight to national and local targets for waste management and the social and economic benefits that a waste management facility offers.

SESA therefore suggests that SPP10: *planning for waste management* is added to the list for planning authorities' consideration.

Area Waste Plans

Planning authorities often fail to adequately account for the need for new waste management infrastructure through the development plan process. A 2005 report prepared for the Scottish Executive noted that only 21% of planning authorities had fully

promoted the waste management objectives of the Area Waste Plans through the development plan process. This report was updated in June 2007 which noted some improvement – but a third of development plans still lack adequate provision towards waste management.

Such sentiments were shared by SPP10 – *Planning for Waste Management*, whilst Audit Scotland's report *Sustainable Waste Management* noted that the 2013 landfill Directive target was likely to be missed as local authorities lacked organisational capacity to ensure residual waste treatment infrastructure was delivered through the planning process.

The regulations should be amended to state that local development plans should have regard to SEPA's Area Waste Plans, in addition to the new National Waste Management Plan.

#### Planning and procurement

Planning and procurement strategies for the delivery of waste management infrastructure are closely linked and there is greater scope for liaison between planning authorities and the Scottish Government on this matter.

Audit Scotland's report *Sustainable Waste Management* (September 2007) noted that the cumulative cost of Government funding support for local authority recycling and residual waste treatment could rise to £2.4billion by 2020 to enable Scotland to comply with EU Landfill Directive targets,

SESA therefore suggests that procurement strategies are included on the list of considerations that planning authorities must account for in preparing plans.

**Q9 Are the minimum publication requirements set out in the proposed regulations adequate, or should additional requirements be included, for instance specifying a list of statutory consultees for development planning?**

Whilst provisions for the publication of development plans appears appropriate, SESA suggests greater clarity is provided on key agencies – and as a minimum specifies the list of statutory consultees (in draft regulation 29).

Paragraph 49 states that it is essential that key infrastructure providers are consulted with and signed up to the delivery of emerging policies. SESA therefore suggests the waste management industry– as key infrastructure providers – are involved in all stages of the development plan preparation process.

The Scottish Government may wish to offer further clarity on potential conflicting advice on the publicising of the Main Issues Report (MIR).

Paragraph 47 states that the MIR is not intended to be the draft plan but should focus on issues changing from the existing plan. However, paragraph 54 then states that consultation on the MIR is the principal opportunity in plan preparation for consulting on the content of a development plan.

**Q10 Is the requirement to place a notice in the Edinburgh Gazette still useful?**

Yes.

**Q11 Are the proposed circumstances where neighbour notification would be required and the definitions of neighbouring land appropriate?**

No comment

**Q12 Will the broad proposed definition of 'notifiable' modifications unnecessarily delay the plan process by subjecting too many modified plans to further consultation?**

No, it would appear appropriate that more substantial modifications to a plan following representations received should be subject to further consultation.

**Q13 Do these proposed exceptions provide an appropriate degree of scope for authorities to depart from the recommendations of examination reports?**

The potential exceptions do not appear appropriate as none of the eventualities listed should occur if development plans were subjected to robust examination.

SESA therefore suggests all decisions by the Reporter's Unit should be binding on planning authorities.

**Q14 Are you satisfied with the proposed regulations for action programmes?**

SESA supports the proposed action programmes and strongly suggests the National Waste Management Plan forms a key consideration in their preparation. This would assist planning authorities to align the proposed timescales of plan implementation with Scotland's waste management targets- essential for its compliance with EU waste law.

In addition, action programmes should establish the timescales for delivering waste management facilities to meet the waste management capacity requirements, which should be identified in the policies of development plans.

**Q15 Given its enhanced status, should the draft regulations (as opposed to advice) say more about the content and procedures for adopting supplementary guidance?**

Whilst SESA understands the need to streamline the content of development plans, we are concerned by proposals which may give weighting to material covered by supplementary guidance in the planning consent process.

Supplementary guidance must not be used as a mechanism to introduce policies into the planning system which are perceived too complicated or cumbersome to be addressed through the preparation of development plans

This concern is particularly pertinent given that planning authorities would have discretion on the preparation and consultation of such guidance – such guidance must go through a thorough consultation process.

If, notwithstanding the above concerns, the Scottish Government is minded to adopt supplementary guidance, SESA suggests the regulations should be amended to state that such guidance does *not* form part of a development plan.

**Q16 It is The Scottish Government's view that the list of key agencies should be limited to statutory bodies regulated by Scottish Ministers but not forming a part of government. On this basis, do you agree with the list of key agencies proposed?**

The list of key agencies appears appropriate.

**Q17 Do the proposed transitional arrangements raise any specific issues for particular plans or areas?**

No comment.

**Q18 Are there any potential impacts on the business or voluntary sectors that we should be aware of in inalizing these regulations?**

As per our response to question 8, development plans have traditionally made poor provision towards waste management development. The planning system remains the single biggest barrier to the investment and delivery of waste management infrastructure, thus threatening Scotland's compliance with the EU Landfill Directive.

**Q19 Are there any potential impacts on particular societal groups that we should be aware of in finalising these regulations?**

No comment.

**Q20 Do you have any other comments to make on the draft development planning regulations?**

No further comment