

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 8 PART 2

DEVELOPMENT MANAGEMENT

CONTENTS	Page No.
1. PLANNING APPLICATIONS	1
1.1 Consultation with the Scottish Ministers	1
1.2 Notice to Consider	1
1.3 Assistance with Response	1
1.4 System for Processing Planning Applications	1
1.5 Transportation Assessments	3
1.6 Local Planning Public Inquiries and Local Development Plans	4
1.7 Pre-Application Advice	4
2. WORKS WITHIN THE TRUNK ROAD	4
2.1 Requirements	4
2.2 Minute or Letter of Agreement	5
3. TRADING WITHIN THE TRUNK ROAD BOUNDARY	5

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DEVELOPMENT MANAGEMENT

1. PLANNING APPLICATIONS

1.1 Consultation with the Scottish Ministers

- 1.1.1 Planning authorities are required to consult with the Scottish Ministers under regulation 25 and any direction given under regulation 30 and Schedule 5 paragraph 5 of the *Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013* before determining an application for planning permission for a development.
- 1.1.2 An electronic planning system has been introduced nationally for planning in Scotland with applications being logged via an online portal. Transport Scotland has developed a parallel electronic online system to record, review, respond and monitor all planning applications. This system is the development management function of the Integrated Roads Information System.

1.2 Notice to Consider

- 1.2.1 The planning authority is required to give the Scottish Ministers not less than 14 days' notice of its intention to consider and determine a planning application.

1.3 Assistance with Response

- 1.3.1 The Operating Company shall appoint a Planning Application Officer in accordance with the requirements of Schedule 5 Part 4 who shall assist the Director in responding to planning authorities on any planning application.

1.4 System for Processing Planning Applications

- 1.4.1 The Operating Company shall comply with the development management function of the Integrated Roads Information System for processing planning applications described in paragraph 1.4.2 of this Part.
- 1.4.2 The procedure for processing of planning applications is:
- (i) the Operating Company shall use the development management function of the Integrated Roads Information System to complete its responses online within five Working Days of receipt of all documentation relating to the planning application, for the Director's consideration,
 - (ii) planning applications, including details and enclosures (such as plans), are uploaded by the planning authority onto the national online planning system on the planning authorities' web pages and an electronic notification is issued to the Director and the Operating Company,
 - (iii) the development management function of the Integrated Roads Information System will prompt the Operating Company to complete its relevant actions in the required timescale in order to assist in the process of responding to the planning application, and

- (iv) the Operating Company shall inform the Director immediately, via email, if the applicant for planning permission has any connection with the Operating Company or any of its members or associates, including:
 - (a) sub-consultants,
 - (b) contractors,
 - (c) sub-contractors, and
 - (d) any parent company or local authority partner of the Operating Company,

which might cause a conflict of interest.

The Director will inform the Operating Company, via email, should he consider it inappropriate for the Operating Company to consider the planning application further. The Director will then appoint others to deal with such applications,

- (v) the Director will ensure that the planning authority has provided all the information required to allow the planning application to be properly assessed. Should the Operating Company identify that incorrect or insufficient information is provided such that the Operating Company cannot process the application, the Operating Company shall highlight this via the development management function of the Integrated Roads Information System.

The development management function of the Integrated Roads Information System will then generate a request to the planning authority to supply the required information as soon as possible. The development management function of the Integrated Roads Information System will also indicate that all the information is not available to the Operating Company. The time for the Operating Company to make the response shall be extended automatically by the development management function of the Integrated Roads Information System until all the required information is available,

- (vi) the development management function of the Integrated Roads Information System will reference applications geographically in order that they can be displayed on a digital map to which the Director and the Performance Audit Group have access at all times.

Where historical information is available, the Operating Company shall use this information to advise the Director of any previous planning applications in the vicinity of any new planning application. The Operating Company shall take into account any advice relating to historical planning applications that is relevant to the vicinity of the new planning application.

Where historical information on planning applications is not held by the Operating Company, the Director will arrange for any available information to be passed to the Operating Company as an Electronic Copy and the Operating Company shall upload the information to the development management function of the Integrated Roads Information System, and

- (vii) the Operating Company shall inspect the Trunk Road in the vicinity of the location relevant to any planning application and consider any potential implications.

The Operating Company shall submit an inspection report, via the development management function of the Integrated Roads Information System, to the Director which shall include relevant details such as:

- (a) visibility,
- (b) traffic flow,
- (c) accident record, as recorded on the Director's accident database,
- (d) speed limit, and
- (e) any other relevant considerations.

The Operating Company shall make comments and recommendations on the application to the Director, via the development management function of the Integrated Roads Information System, taking into account all the details available from the inspection and Records.

The Operating Company's recommendations to the Director will adopt, where appropriate, the standard planning consultation responses referred to in Scottish Executive Circular 4/1998 – *The Use of Conditions in Planning Permissions*,

- (viii) on receipt of the planning application, the Operating Company shall review the Equality Act database and advise the Director of any barriers to accessibility in the vicinity of the planning application via the development management function of the Integrated Roads Information System,
- (ix) the Operating Company shall provide photographs taken in the vicinity of the site of the planning application. The photographs shall be taken in a sufficiently competent manner and be of sufficient scope and quality to assist the Director in coming to a recommendation. Particular attention shall be given to the quality of the photographs provided during the winter months when the daylight hours are restricted.

The Operating Company shall upload the photographs in the correct file size and format specified by the development management function of the Integrated Roads Information System.

- 1.4.3 The advice to the planning authority on each planning application shall be issued by the Director via the development management function of the Integrated Roads Information System and will take into account the comments and recommendations of the Operating Company. The advice given by the Director to the planning authority will be available to the Operating Company via the development management function of the Integrated Roads Information System.

1.5 Transportation Assessments

- 1.5.1 The Operating Company shall notify the Director, via the development management function of the Integrated Roads Information System, within one Working Day of receipt of any planning applications which require a transportation appraisal or assessment, as referred to in the *Development Planning and Management Transport Appraisal Guidance* published by Transport Scotland.

The audit of a transportation appraisal or assessment submitted by the developer will usually be carried out on behalf of the Director by the Development Management Branch of the Trunk Road and Bus Operations.

The Director will manage such planning applications but the Operating Company shall be required to complete the necessary responses and comments and take the necessary photographs in accordance with paragraph 1.4.2 of this Part.

1.6 Local Planning Public Inquiries and Local Development Plans

- 1.6.1 From time to time, planning applications may result in local planning public inquiries being held. Assistance for these will normally be provided by term consultants directly employed by the Director. However, where assistance is required from the Operating Company, this shall be subject to an Order.

Similar arrangements shall be followed regarding assistance for consultation on local development plans.

1.7 Pre-Application Advice

- 1.7.1 Pre-applications will be registered on the development management function of the Integrated Roads Information System and when prompted to do so by the Director, the Operating Company shall provide information or advice in relation to them.
- 1.7.2 Where the Operating Company is asked to provide information or advice on pre-applications, the Operating Company's response to the applicant shall be recorded on the development management function of the Integrated Roads Information System. Where site measurements or checks are required in response to a pre-application, the Director will notify the Operating Company via email and the Operating Company shall record the relevant measurement or check information.
- 1.7.3 At no time shall the Operating Company confirm that a proposal is acceptable to an applicant or its agent, although it may acknowledge the suitability or otherwise of any technical standards. Its response to the applicant shall be referred back to the Director via the development management function of the Integrated Roads Information System to be qualified as appropriate.

2. WORKS WITHIN THE TRUNK ROAD

2.1 Requirements

- 2.1.1 The Director's advice on the development management function of the Integrated Roads Information System allows:
- (i) for the inclusion of advice that any planning consent does not carry with it the right to carry out works within a Trunk Road, and
 - (ii) that the applicant will consult the Operating Company on terms and conditions under roads Legislation, to be agreed between the developer and the Director, before approval is given to the developer to undertake works within a Trunk Road.
- 2.1.2 Whether planning consent is required or not, where a developer requires to execute work on a Trunk Road, the developer is required to liaise with the Director (and copy to the Operating Company), to obtain authorisation for such works before their commencement. Subject to an Order, the Operating Company shall check the developer's proposals and authorise works if acceptable.
- 2.1.3 Before authorisation is given to a developer to carry out work within a Trunk Road, the Operating Company shall ensure that any plans and detailed proposals of the work have been submitted in sufficient detail for it to satisfy itself that all terms and conditions relating to the design, construction and temporary traffic management of

the work and legislative requirements of the *Equality Act 2010 (Amendment) Regulations 2012* have been complied with to allow it to authorise such works.

2.1.4 The Operating Company shall undertake whatever inspections and site supervision are necessary to ensure that:

- (i) the work does not cause unnecessary inconvenience to all categories of road user, including motorists, pedestrians, cyclists, motorcyclists and equestrians,
- (ii) the work undertaken meets the required standards of design, construction and temporary traffic management, and
- (iii) the work is constructed in accordance with the planning consent.

2.1.5 The Operating Company shall update the network referencing when appropriate in accordance with the requirements of Schedule 4 Part 2.

2.1.6 The Operating Company's duties, responsibilities and powers, as referred to in paragraphs 2.1.1 to 2.1.5 of this Part, are contained in the relevant sections of the *Roads (Scotland) Act 1984* and are Statutory Functions delegated to the Operating Company under this Contract.

2.1.7 The Operating Company shall advise the Director via the development management function of the Integrated Roads Information System in the event of any failure by a developer to comply with the terms and conditions imposed in relation to its work as referred to in this Part.

2.2 Minute or Letter of Agreement

2.2.1 For certain work on a Trunk Road required as a result of a planning application, developers may be required by the Director to enter into a minute or letter of agreement with the Scottish Ministers which specifies conditions relating to approvals and consents for any such work and for adoption of the completed work.

2.2.2 Subject to an Order, the Operating Company shall assist the Director in drawing up and administering such minutes or letters of agreement, including providing technical and programming advice on the proposals.

3. TRADING WITHIN THE TRUNK ROAD BOUNDARY

3.1.1 During each Annual Period, the Operating Company shall check at intervals not exceeding six months, that anyone trading from a lay-by on a Trunk Road within the Unit, or any other location that is within 15 metres of such Trunk Road, has a permit issued by Transport Scotland granting permission to trade at that location, and that they are abiding by all conditions pertaining to that permission.

If the Operating Company finds that a person is trading from a Trunk Road lay-by without the permission of Transport Scotland or that the permission letter is not clearly displayed, the Operating Company shall notify its Planning Application Officer immediately. The Planning Application Officer shall inform the Director within five Working Days of such notification and agree actions to be executed by the Operating Company.

