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Date: 19 May 2006



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Dear Mr Cruickshank,

CONSULTATION ON A NEW APPROACH TO DELIVERING PUBLIC TRANSPORT INFRASTRUCTURE DEVELOPMENTS

In response to your letter of 24 February I would like to make the following comments on the proposals contained in the above consultation document. Overall, the proposed process is to be welcomed. Whilst there is a need for parliamentary scrutiny of major issues I agree that there is a need to ensure that only issues of national importance are scrutinised by parliament and that the process employed in the scrutiny is clear and broadly reflects the procedures used by planning authorities in determining planning applications.

Comments on specific issues

Page 8 Question 2

Q2 What reasons exist for lengthening or indeed shortening the 6 month minimum designated statutory pre-application period between the promoter publicising initial proposals and presenting an application for an Order to the Scottish Ministers?

The six month period seems reasonable but its appropriateness may depend upon the scale and complexity of the proposal. However, whilst the time period is important, it is equally important that publicity and notification is exhaustive and effective. Any new procedure requires to be supported by clear requirements of what is to be undertaken in respect of notification and publicity. There also requires to be a mechanism to scrutinise the publicity and consultation which has been undertaken similar to the process which is proposed for development plans in the new Planning Bill. Also in view of the proposal to place the responsibility for neighbour notification on to local authorities any new procedure will require to specify how this will be done and who will be responsible. This should also be subject to the scrutiny suggested above. The Council's experience with the GARL proposals suggest that six months may not be sufficient in some of the more complex schemes.

Page 8 Question 3

Q3 What process should apply to enable a promoter, without a statutory right, to enter land to conduct preliminary investigations?

I feel that this should be a matter for the Scottish Executive to determine in consultation with the local authority. As the process of approval is not the responsibility of the local authority I think that it would be confusing for local councils to be required to make arrangements for access to land to allow for the preparation of a scheme. I think that there needs to be a consistent line of responsibility in the determination of such development proposals and the chain of responsibility should therefore lie with the Scottish Executive who represent the determining authority. However there would be merit in the Scottish Executive working closely with local authorities in determining the provision of a right of access as local councils will have a better understanding of local issues and concerns. If a certificate of fitness was to be issued, consideration would have to be given to the liabilities of the granter of the certificate were it found to or alleged to have been incorrectly issued.

Page 8 Question 4

Q4 What documentation should be supplied by the promoter in support of the application? Is there sufficient information contained within the proposals?

In view of the fact that the approval process will provide deemed consent to the proposed development, the equivalent of outline planning consent, it would be expected that the documentation required for submission would be, at minimum, the equivalent of that which would be required for the submission of outline planning consent to a local authority for the proposed development. The documentation required would depend upon the development proposal and there is no prescription for what should be submitted, it is for the local planning authority to determine. I would suggest that the Scottish Executive Development Department, Planning Division could assist on this matter. It may also be useful to include a procedure to consult the local planning authority to assess whether, in their view, the documentation supplied is sufficient to allow the application to be determined.

Page 8 Question 5

Q5 What are the implications of reducing the time for objections from 60 to 42 days?

Where large organisations are consulted, it is often necessary to ingather information from various officials within that organisation. The Council's own experience is that 60 days is probably a minimum timescale to allow proper consultation to take place.

Page 10 Question 6

Q6 Are there any reasons why, once the Scottish Ministers have determined that the application meets the procedural conditions and the specified criteria conditions, that the application should be considered by the Scottish Parliament prior to a public examination of the objections?

This dilution of the role of the Scottish Parliament as originally proposed by the Procedure Committee at both this stage of the proceedings and at the final approval stage appear to place too great an emphasis on the need for reducing delays in the process and too little emphasis on ensuring that proper scrutiny is carried out before what will generally be extensive projects affecting proprietary interests of many third parties are duly authorised.

Page 10 Paragraph 4.29

I suggest that the provisional assessment should include in addition to the criteria listed in paragraph 4.29

Bullet 2 Compliance with other statutory requirements should include compliance with the development plan.

Additional criterion:- Adequacy of the information provided

Page 10 Paragraph 4.30 (Also applies to reference in paragraph 4.39)

In addition to the National Planning Framework, consideration should also be given to the status of the proposal in the Development Plan for the area. The National Planning Framework may only identify the largest proposals whereas the local Development Plan may have considered and identified the proposal. If this is the case this would be a most important consideration in the provisional assessment of any proposal

Page 10 Paragraph 4.33

The Council has some concerns that in forming an initial view as to whether or not the proposal is in the public interest, notwithstanding that this view is stated to be without prejudice to the views of objectors, such a view will be seen by objectors as reducing the impartiality of the Parliament in its later consideration of the scheme.

Page 12 Paragraph 4.43

Whilst I support the intention to seek to resolve objections through agreement between the objector and the promoter, where amendments designed to alleviate or remove any objections which are agreed by both the promoter and the objector are accepted by the reporter it is clearly essential that these are fully publicised to ensure that those who may be newly affected by any resulting modifications are made aware of these and have an opportunity to object to them.

Yours sincerely



Bob Darracott
Director of Planning & Transport