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27 August 2020

Heads of Planning Services

Dear Colleague,

**THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS)
(APPLICATIONS UNDER SECTION 42) (SCOTLAND) DIRECTION 2020**

I am writing to you to draw your attention to the attached direction which will come into force on 28 August 2020. The direction is regarding the notification to Scottish Ministers of applications made to authorities under section 42 of the Town and Country Planning (Scotland) Act 1997 for the development of land without compliance with planning conditions, where such conditions have been set by the Scottish Ministers by virtue of a direction given under section 57(2) or (2ZA) of the Act.

In most cases where the Scottish Ministers deem planning permission to be granted for electricity developments, integral to the decision will be planning conditions. Many of those are set in order to avoid or mitigate environmental impacts and to ensure construction and implementation of a development in accordance with the terms of an application. A developer may seek to alter the terms of such planning conditions at a later stage. Where a developer wishes only those planning conditions to be considered, it is correct that a section 42 application would be made to the planning authority.

In order to maintain an awareness of the implementation of planning permissions deemed to be granted by them the Scottish Ministers give the direction set out in Annex 1. The direction refers to applications validated on or after the date the direction comes into force, in addition to any section 42 applications which are currently under consideration.

For applications already under consideration the information should be given as soon as practicable and before the application is determined. For new applications the information should be given as soon as practicable after the application is made.

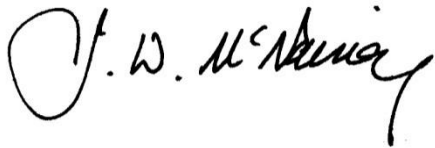
The following details are required to be submitted to Ministers (as relevant):

- The planning application reference
- The name, and address or location of the development, and
- A copy of the application and relevant environmental statement or report

Notification is anticipated to be made primarily by a brief e-mail that includes relevant links to the required information.

If you have any queries about this letter - please do not hesitate to contact the energy consents unit at econsents_admin@gov.scot.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J. W. McNairney'. The signature is written in a cursive, flowing style.

JOHN MCNAIRNEY
Chief Planner

Annex 1

THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS) (APPLICATIONS UNDER SECTION 42) (SCOTLAND) DIRECTION 2020

1. The Scottish Ministers give the following Direction in exercise of the powers conferred by regulation 31 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and all other powers enabling them to do so.

Citation, commencement and interpretation

2. This Direction may be cited as the Town and Country Planning (Notification of Applications) (Applications under Section 42) (Scotland) Direction 2020 and comes into force on 28 August 2020.

3. In this Direction—

“deemed planning permission” means planning permission deemed to be granted by a section 57 direction,

“relevant section 42 application” means an application for planning permission made by virtue of section 42 of the Town and Country Planning (Scotland) Act 1997 for the development of land without complying with conditions subject to which a deemed planning permission was granted, and which—

- (a) is made to the planning authority on or after 28 August 2020, or
- (b) was made to the planning authority before that date but in respect of which the planning authority have not given notice of their decision,

“section 57 direction” means a direction given under section 57(2) of the Town and Country Planning (Scotland) Act 1997 and includes a direction varied by a direction given under section 57(2ZA) of that Act.

Information to be given to Scottish Ministers

4. The planning authority must give Scottish Ministers the following information in respect of a relevant section 42 application:
 - The planning application reference for the relevant section 42 application;
 - The name, and address or location of the development to which the relevant section 42 application relates;
 - A copy of the relevant section 42 application; and
 - A copy of any environmental statement or environmental impact assessment report accompanying the application.

5. Information in respect of relevant section 42 applications made on or after 28 August 2020 should be given as soon as practicable after the validation date for the application. Information in respect of a relevant section 42 application made before 28 August should be given as soon as practicable after that date. The Scottish Government would expect, where possible, that the information sent to Scottish Ministers is provided electronically by means of a link, or series of links to the relevant case file on the planning authority's website.

Reason for Direction

6. This Direction is given to ensure that where Ministers have considered planning conditions are necessary to allow electricity generation, transmission or distribution developments to be granted consent and deemed planning permission, that they are made aware when a developer applies to the planning authority for development to be carried out without compliance with conditions on the deemed planning consent. This allows Ministers to maintain an awareness of the implementation of planning permissions deemed to be granted by them in relation to consents given under section 36 or 37 of the Electricity Act 1989.

Submission of information

7. Submission should be made by e-mail to the following address:
econsents_admin@gov.scot.
8. Where it is necessary to send hard copies of some or all of the required documents, they should be sent to:

The Scottish Government
Energy Consents Unit
Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU

Scottish Government
Planning and Architecture Division
27 August 2020