SCOTTISH STATUTORY INSTRUMENTS

2008 No. 434

The Town and Country Planning (Appeals) (Scotland) Regulations 2008

PART 2

Appeals under section 47 of the Act

Notice of Appeal

3.—(1) An appeal to the Scottish Ministers under section 47 of the Act is to be made by giving notice in writing in accordance with this regulation.

(2) Subject to regulation 24, the notice of appeal must be served on the Scottish Ministers within the period of three months beginning with, in the case of an appeal made under–

(a) section 47(1) of the Act, the date of the decision notice; and

(b) section 47(2) of the Act, the date of expiry of the period allowed for determination of the application.

(3) The notice of appeal (on a form obtained from the Scottish Ministers) must include–

(a) the name and address of the appellant;

(b) the date and the reference number assigned by the planning authority to the application in respect of which the appeal is made;

(c) the name and address of the representative of the appellant (if any) and whether any notice or other correspondence which is required by these Regulations to be sent to the appellant should be sent to the representative instead of the appellant;

(d) a statement setting out full particulars of the appeal including a note of what matters the appellant considers require to be taken into account in determining the appeal and by what procedure (or combination of procedures) mentioned in regulation 8(4) the appellant wishes the appeal to be conducted.

(4) Subject to paragraph (5)–

(a) all matters which the appellant intends to raise in the appeal must be set out in the notice of appeal or in the documents which accompany the notice of appeal; and

(b) all documents, materials and evidence which the appellant intends to rely on in the appeal must accompany the notice of appeal.

(5) In addition to matters set out in the notice of appeal and documents which accompany the notice of appeal, the appellant may raise matters and submit further documents, materials or evidence only in accordance with and to the extent permitted by regulations 4, 5 and 10, the Hearing Session Rules and the Inquiry Session Rules.

Intimation to planning authority and planning authority's response

4.—(1) The appellant must at the same time as giving the notice of appeal to the Scottish Ministers send to the planning authority–

(a) a copy of the notice of appeal;

(b) a list of all documents, materials and evidence which the appellant intends to rely on in the appeal and which accompanied the notice of appeal in accordance with regulation 3(4)(b); and

(c) a copy of all documents, materials and evidence specified on such list which the appellant has not already provided to the planning authority in connection with the application to which the appeal relates.

(2) The planning authority must, not later than 21 days beginning with the date of receipt of notification of an appeal under paragraph (1), send to the Scottish Ministers and the appellant–

(a) a note ("the planning authority's response") of what matters the planning authority consider require to be taken into account in determining the appeal and by what procedure (or combination of procedures) mentioned in regulation 8(4) the planning authority wish the appeal to be conducted;

(b) a copy of the documents (other than those specified on the list mentioned in paragraph (1)(b)) which were before the planning authority and which were taken into account in reaching their decision;

(c) a copy of any Report on Handling prepared in respect of the application; and

(d) the conditions (if any) which the planning authority presently consider should be imposed in the event that the Scottish Ministers or the appointed person, as the case may be, decide that permission be granted.

(3) The appellant may, within 14 days beginning with the date of receipt of the planning authority's response, send to the Scottish Ministers and the planning authority–

(a) comments on any matters raised in the planning authority's response which had not been raised in the decision notice; and

(b) any documents, materials or evidence on which the appellant intends to rely in relation to such comments.

Notification to interested parties

5.—(1) The planning authority must not later than 14 days following notification of the appeal under regulation 4(1) give notice of the appeal to each interested party.

(2) Notice under paragraph (1) may be given–

(a) by post to any interested person notified or consulted under the Act other than by newspaper advertisement; and

(b) by post or by advertisement in a newspaper circulating in the locality where the proposed development is situated, to any other interested person.

(3) Notice under paragraph (1) shall–

(a) state the name of the appellant;

(b) include a description of the development to which the appeal relates;

(c) include the postal address of the land to which such development relates, or if the land in question has no postal address, a description of the location of the land;

(d) state that copies of any representations previously made to the planning authority, other than representations which the interested party has asked to be treated as confidential, will

be sent to the Scottish Ministers and the appellant and will be taken into consideration in the determination of the appeal;

(e) state that further representations may be made to the Scottish Ministers and include information as to how any representations may be made and by what date they must be made;

(f) state how a copy of the notice of appeal and other documents related to the appeal may be inspected.

(4) An interested party may, within 14 days beginning with the date on which notice is given under paragraph (1) make representations in respect of the appeal to the Scottish Ministers.

(5) The Scottish Ministers are to send a copy of any representations received under paragraph (4) to the appellant and to the planning authority and are to inform them how and by what date (being a date not less than 14 days after the date on which such copy is sent under this paragraph) they may make comments to the Scottish Ministers on such representations.

(6) The appellant and the planning authority may, on or before that date, make comments on such representations to the Scottish Ministers.

Publication of appeal documents

6.—(1) The planning authority are in relation to an appeal to make copies of–

(a) the notice of appeal;

(b) the planning authority's response and any comments sent under regulation 4(3)(a); and

(c) the documents–

(i) specified on the list mentioned in regulation 4(1)(b);

(ii) sent in accordance with regulation 4(2)(b) and (3)(b);

(d) any notice given under regulation 5(1);

(e) any representations or comments made under regulation 5(4) or (6),

available for inspection at an office of the planning authority until such time as the appeal is determined.

(2) The planning authority are until such time as the appeal is determined to afford to any person who so requests the opportunity to inspect and, where practicable, take copies of any such documents (or any part thereof).