

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (SCOTLAND) AMENDMENT (AMENDMENT) ORDER 2014

SSI 2014/184

The above Order is made by the Scottish Ministers under sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997 on 23 June 2014. It is being laid before the Scottish Parliament today and is to come into force on 29 June 2014. The Order is subject to negative procedure.

Introduction

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 has not been complied with. In accordance with section 31(3) of that Act, this letter explains why.

SSI 2014/184 is required to correct errors in the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order (SSI 2014/142) which were identified by the Delegated Powers and Law Reform Committee.

The Committee drew the instrument to the attention of SG on two accounts –

(1) that there is an error in paragraph (5) of class 9B in Part 2A of schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (the erection or construction of a trolley store within the curtilage of a shop), as inserted by the schedule to this instrument. The paragraph (inter alia) purports to define the terms “enclosed shopping centre” and “retail park” for the purposes of class 9B. However those terms appear not be used in the class, but are used within the definition of “shop or financial or professional services establishment” in paragraph (5) of class 9A (the extension or alternation of a shop or financial or professional services establishment); and

(2) “raised platform” is defined for the purposes of the Class 9A referred to above, to specify the minimum height of platform, but not for the purposes of the use of the term in Class 9C, paragraph (2)(f) and Class 9D - which it ought to be.

It is therefore necessary to make corrections to the new provisions.

SSI 2014/184 requires to be laid on 25 June 2014 so as to amend on 29 June 2014 the provision which would otherwise operate to insert the error which comes into force on 30 June 2014.

Given that SSI 2014/142 is due to come into force on 30 June 2014, the Scottish Government’s view is, therefore, that it is necessary to breach the 28 day laying requirement to ensure that the errors identified by the DPLRC are rectified in time for the coming into force of the amendments contained in SSI 2014/142 on 30 June 2014.

Policy context

The Scottish Government believes that a well-functioning planning system is essential to achieving its central purpose of increasing sustainable economic growth. An effective, efficient and proportionate planning system which is focused on outcomes will deliver benefits to the wider economy.

Considering minor uncontroversial types of development is not an effective or efficient way of regulating development. Requiring planning applications, where the planning system can add little, or no value, imposes unnecessary costs and delays to development. However, if permitted development rights are set too widely then there is a risk of inappropriate development taking place.

The Town and Country (General Permitted Development) (Scotland) Order 1992, as amended is the primary means by which permitted development rights (PDR), an exemption from the need for a planning application, is conferred. The order grants planning permission for a variety of works and uses provided that the development complies with the limitations and conditions set out.

Article 2 of The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order (SSI 2014/142) makes changes to the classes of development which are currently permitted and introduces new classes of permitted development.

The Delegated Powers and Law Reform Committee noted that SSI 2014/142 contained some minor errors which the Scottish Government are seeking to rectify through the laying of this Amending Order.

Financial Implications

None. This Order makes changes to clarify where some definitions apply and to ensure that other definitions are consistent across the classes to which they apply. It does not change the nature of the classes or the impact they will have on business. The financial implications of the various classes were considered in the policy note for SSI 2014/142.

Equalities Impact Assessment

The implications of the various classes were considered in the policy note for SSI 2014/142. This Amendment Order corrects minor errors relating to definitions and will not have any further impact on equalities.

Strategic Environmental Assessment.

The amendments set out in SSI 2014 were considered under the Environmental Assessment (Scotland) Act 2005 in order to identify if a Strategic Environmental Assessment (SEA) was required. A screening process was undertaken in consultation with SEPA, Historic Scotland and Scottish Natural Heritage after which it was determined and advertised that the GPDO would not have significant environmental effects and an SEA was not required. No further screening is required given the nature of the amendments contained in this Amendment (Amending) Order.

Scottish Government