

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (CAIRNRYAN BORDER CONTROL POSTS) (EU EXIT) (SCOTLAND) SPECIAL DEVELOPMENT ORDER 2021

SSI 2021/98

The above instrument (“the Order”) was made in exercise of the powers conferred by section 30(2)(b) of the Town and Country Planning (Scotland) Act 1997. The instrument is subject to negative procedure.

Purpose of the instrument.

The Order grants temporary planning permission for the development of new border control infrastructure in the vicinity of the ports at Cairnryan subject to conditions. Before development can take place, site-specific approval must be sought from the Scottish Ministers in accordance with the procedures specified in the Order.

Policy Objectives

Following the end of the EU Exit implementation period, goods entering the UK from the EU are subject to the same border entry requirements and controls as rest of the world goods. Scottish Ministers are responsible for the enforcement of checks on animals, plants, plant products, product of animal origin and high risk foods not of animal origin. Enforcement is delivered through inspection facilities located at Border Control Posts (BCP).

In most cases, BCPs are being provided by port operators¹. However, the two ferry terminals at Cairnryan (the Port of Cairnryan and Loch Ryan Port) in Dumfries and Galloway do not have the necessary physical space to accommodate the required infrastructure and facilities within their boundaries. In accordance with the UK Border Operating Model, it is for government to provide facilities at an inland site in such circumstances. At the time of making the Order, it is understood that BCP need to be operational by 1 July 2021.

The purpose of the Order is to support the timely delivery of this nationally important border infrastructure, and in doing so, help to prevent or limit disruption that may occur in and around Cairnryan if the required facilities are not provided, or if their operation is significantly delayed.

At the time of making the Order, specifications for the Cairnryan BCP have not been finalised and a preferred site is yet to be selected. The Order is intended to provide additional planning certainty while such details remain outstanding. Specifically, article 3 of the Order grants temporary planning permission for the provision of the BCP facilities on land located within 15 miles of the Cairnryan ports (see article 1(2) of and schedule 1 to the Order). The permission granted by the Order does not apply to land specified at paragraphs 2 and 3 of schedule 1, which includes conservation areas, national scenic areas, sites of special scientific interest or European sites. The permission granted by the Order is also subject to a number of conditions and limitations.

¹ Port operators have permitted development rights for certain types of development carried out on operational port land under Part 13 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

Article 4(1) provides that the use of a specific site as a BCP must be expressly approved by Scottish Ministers before development can take place under the Order. Such site-specific approval must be sought through a written submission which includes the information and details specified in article 4(2) of the Order. This includes an analysis of likely environmental effects and an assessment of traffic impacts.

Before this site-specific approval is sought, those parties specified in schedule 3 to the Order must be given the opportunity to comment on the development proposals. These include owners and occupiers adjacent to the proposed development site and on access routes to the site, Dumfries and Galloway Council, the relevant community council(s) and statutory environmental bodies (NatureScot, Scottish Environmental Protection Agency and Historic Environment Scotland).

The planning permission granted by the Order is for a limited period and use of the land as authorised by the planning permission must discontinue five years after the development becomes operational, with all reinstatement works completed a year later. Paragraph 1 of schedule 2 to the Order provides that development authorised by the Order can only be carried out by, or on behalf of, the Scottish Ministers.

The Order has been prepared as a contingency measure: it does not preclude planning permission for Cairnryan border infrastructure being sought through an application submitted to Dumfries and Galloway Council should such an approach be compatible with operational timescales of the BCP.

Consultation

The delivery timescales associated with the provision of the BCP at Cairnryan are such that full public consultation has not been possible prior to making the Order. However, Scottish Government has engaged with key partners and stakeholders regarding the emerging proposals. These include:

- Dumfries and Galloway Council
- Relevant port/ferry operators
- Scottish Environmental Protection Agency
- Nature Scotland
- Historic Environment Scotland
- UK Government
- South of Scotland Enterprise

As noted above, the Order requires consultation to be carried out with those parties specified in schedule 3 before site-specific approval is sought from the Scottish Ministers under article 4(1). A report summarising the outcome of this consultation must be included in the written submission made to Scottish Ministers when such site-specific approval is sought.

Impact Assessments

As well as a Business and Regulatory Impact Assessment (BRIA), covered in the next section, we have also carried out an Equality Impact Assessment (EqIA) and Children's Rights and Wellbeing Impact Assessment (CRWIA). These assessments did not identify negative impacts but acknowledged that specific impacts are uncertain at this time because the scale and location of the Cairnryan BCP are yet to be finalised. We have screened out the need for a Fairer Scotland Duty Assessment and Island Communities Impact Assessment as the Order relates solely to border infrastructure required to serve the ports at Cairnryan.

Financial Effects

A BRIA has been completed and is attached. By supporting the timely delivery of the Cairnryan BCP, the Order is considered to help avoid the costs to businesses that could arise if the required border facilities are not provided or if their delivery is substantially delayed. The extent of these potential costs has not been quantified.

Scottish Government
Directorate for Local Government and Communities

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