

## **When Good Neighbours Become Good Friends**

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A new consultation paper has recently been published seeking views on two sets of proposed regulations further implementing the Planning etc (Scotland) Act 2006. Specifically, the regulations relate to section 23 and 24 of the Act which respectively amend and extend Section 75 of the Town and Country Planning (Scotland) Act 1997 and introduce Good Neighbour Agreements.

The consultation is not on policy with regard to the use of planning agreements (or obligations as they will become known) or Good Neighbour Agreements, but on the content of the Regulations required to implement the provisions of the 2006 Act. To recap the changes to be introduced by the 2006 Act:

- Section 75 will allow a developer/landowner to propose unilateral undertakings as well as entering into planning obligations with planning authorities. Provided the owner of the land is a party, a unilateral undertaking will be enforceable against successors in title;
- A statutory right to seek to have a planning obligation modified or discharged by the planning authority with a right of appeal against the decision to Scottish Ministers;
- Good Neighbour Agreement are a new concept. They will allow developers and/or landowners to enter into agreements with “community bodies” governing the activities related to the development of land. The aim of Good Neighbour Agreements is to give community bodies a more influential role in the development process. If the agreement is appropriately registered it will bind successors in title.

The consultative draft Regulations in respect of planning obligations deal specifically with the form and content of applications to the planning authority to modify or discharge a planning obligation, the timescale for determination (2 months) and with appeals to the Scottish Ministers. The draft Regulations on obligations under Good Neighbour Agreements are similar in scope and content. The procedure proposed is broadly as follows (for ease we are referring to planning obligations, but the proposals apply equally to Good Neighbour Agreements):

- A landowner or other entity against whom the planning obligation is enforceable applies to the planning authority to modify or discharge an obligation using prescribed procedure. The application must include the grounds on which the modification or discharge is sought.
- The planning authority shall inform all interested parties of the application within 5 days of all of the prescribed information having been received from the applicant (‘the validation date’). Interested parties are the owner (where not the applicant) or any party against whom the obligation is enforceable. Details in the public Register of Applications. Any interested party then has 21 days from receipt of notice to prepare and submit their representations.
- The planning authority has 2 months from the validation date to make and notify their decision. The notice of determination is to be issued to the applicant and every interested party setting out the terms of, and the reasoning behind, the decision. An appeal may be made against the planning authority’s decision or in relation to the failure to determine the application within 2 months of validation date.

The purpose of the consultation is to refine these procedures and establish whether the information asked of the applicant is sufficient for the authority to take a decision and then whether the prescribed time periods for notification, responses and a decision are fair and reasonable.

The consultation closes on 30 July. More detail and specific questions are posed in the consultation document at

<http://www.scotland.gov.uk/Resource/Doc/310540/0097991.pdf>

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