



SPF Response to Masterplan Consent Areas consultation

22 May 2024

Approach to Regulations

1 A) To what extent do you agree with the principle that regulations be kept to the minimum necessary and that more advice be offered in guidance and kept updated?

Strongly Agree

1 B) Please explain your view.

Text box for answer :

We strongly agree that Guidance is a better route for many Regulations in terms of the flexibility to maintain up to date policy and more easily adopt Best Practice.

Development and major mixed use developments in particular are highly complex projects that are required to address a multiple of issues covering biodiversity, flooding, energy, economic impacts and frequently changing building and design standards. To maintain specific regulations in each and every area is both an extremely difficult and technical challenge. The time and parliamentary process involved alone leads to uncertainty and significant costs. As the consultation makes clear, MCAs are therefore a delivery mechanism that will aid applicants and authorities to address some of these specified requirements in a coordinated and effective manner with the purpose of delivering quality place-based master-plans in bespoke local areas. We support therefore the broad outline of the two draft Regulations for broader MCA regulations and for EIA related MCA Regulations.

Guidance itself is challenging to maintain being up to date and addressing key policy objectives, but it can be updated and amended more easily usually than a more drawn-out regulatory process.

Excluding kinds of development from MCA schemes

2 A) We are not proposing to regulate to exclude any form of development from having potential to be within a MCA. To what extent do you agree with this approach?

Strongly Agree

2 B) Please explain your view.

Text box for answer :



We strongly agree. To encourage the uptake and utilisation of MCAs, the scheme must be flexible to account for the different variations in development proposal and therefore both use and scale exclusions should be limited as much as possible.

Places that cannot be included in a scheme

3 A) We are not proposing any changes to the designations listed in schedule 5A (paragraph 3(4)). To what extent do you agree with this approach?

Strongly Agree

3 B) Please explain your view.

Text box for answer:

We do not agree with the designated list for potential locations for MCAs.

In the same manner that conservation areas were excluded - given that they frequently cover historic town centres, we also consider that the World Heritage Site in Edinburgh city centre falls under this same umbrella where an MCA could be used to support pockets of city centre regeneration. We note that paragraph 3(6) of Schedule 5A gives the Scottish Ministers the power to make regulations to modify the list.

Duty to periodically consider making a scheme statement

4 A) To what extent do you agree that the matters above in relation to the statement be set out in guidance rather than regulations?

Strongly Agree

4 B) Please explain your view.

Text box for answer :

The Regulatory framework will require Planning Authorities to deliver a regular statement (once every five years) on their approach to MCA schemes. The intention is to keep this as simple as possible with the detail largely left to guidance. The consultation itself notes that there may be forms of development/land-use that are not currently envisaged and by maintaining a statement supported by guidance which can more easily be refreshed and amended as required. The local authority will be in control of this detail therefore and this will ensure both democratic oversight and the ability to intervene to amend technical and policy requirement. It would be much more time consuming and uncertain if a secondary legislation approach had to be taken to amend MCA statements frequently.

Although, concern on the wording (which reflects the legislation) that there is a duty on planning authorities to consider making an MCA for a part or parts of their area at least once every five years. This makes it sound as if these won't be widely adopted by LPAs? MCAs could be a great tool to bring forward all forms of development including housing.



Consultation on possible proposals for a masterplan consent area scheme

5 A) Draft Regulation 3(4) specifies that planning authorities must consult with community councils before determining the content of any MCA proposals which may be publicised. To what extent do you agree with this?

Agree

5 B) Please explain your view.

Text box for answer :

We broadly agree with consulting with community councils, but we also need to consider that these consultations processes including objections and amendments will add to the timeline. The process is already very heavy on front loading and overly prescriptive, as mentioned before there should be flexibility.

6 A) Draft Regulation 3 provides how consultation for possible proposals for a MCA scheme is to be undertaken, including notification and the requirement to undertake two public events, with opportunity to make comments to the planning authority. To what extent do you agree with this approach?

Agree

6 B) Please explain your view.

Text box for answer :

In the consultation there is no provision for online consultation, that would make the process more flexible and will increase participation.

MCA schemes form and content

7 A) To what extent do you agree that the regulations should require reasons for conditions to be set out in the MCA scheme?

Agree

7 B) Please explain your view.

Text box for answer:

As is the case for decision notices for planning applications, we agree that any conditions, informatives or annexes attached to an MCA scheme should have the reasons specified for these.

8 Are there any further aspects you consider should be required to be included in a MCA scheme? Please specify and explain why.



Text box for answer:

We support MCAs and think it will be a helpful tool in facilitating development and providing certainty to investor but there is lack of clarity of the process in this consultation. The whole process seems overly prescriptive and there should be more flexibility. Some of the areas that can be included to provide more certainty is:

Timeline- For larger sites, would question whether 10 years maximum period for their duration is sufficient - (Schedule 5A, paragraph 1). Would advocate that there is the ability to extend the duration by say a further 5 years. The MCA process is front loading the planning permission, which can take longer than the actual project to start. If the development doesn't finish in this defined timeframe, what will happen next?

Fees and Resourcing - there is no clarity over the fees to be included in the process, suppose if a developer pays fees for MCA will there be any other discretionary fees? Or will that be included? Also, to bring forward MCAs within local authorities, the system needs to be well resourced, given that planning system is already under pressure, there should be mechanism to ensure performance and efficiency. Main concern is on the resourcing requirements for LPAs to prepare them. Development Plan teams are stretched and will be engaged in preparing the new style LDPs. MCAs are going to need strong collaboration from the private sector - especially in the early preparatory stages to prepare the guidelines and plans to bring these forward. The stages of 'project initiation' and 'prepare proposed scheme' (page 16) will most likely be resourced by the private sector; we consider that it is doubtful that the public sector will have the time, staff resources and funding to cover these requirements in addition to preparing the new style LDPs.

Agree that there should be a fee for development in an MCA. Our member do not agree that fees should be left to the discretion of the LPA. This has the potential to result in variances between authorities - as currently exists for pre-application discretionary fees. This could prejudice MCAs being brought forward in one area which potentially has higher fees, compared to another local authority area which has lower fees. We consider that MCA fees should be cheaper than the planning application fees schedule to provide some incentive for landowners/developers going through this process. We agree that perhaps an upper fees limit is set - this could be based on site area or the quantum of new floorspace created.

Land assembly - there is no information on land assembly, if a scheme is announced will it have land ownership clarified for a large project or will that be done after the MCA process starts?

Wider development plans - how will the amendments in LDP and NPF impact MCAs? Or will MCA be independent of these changes.

Consultation on proposals for a masterplan consent area scheme

9 A) Draft Regulation 4(3) and Schedule 1 of the draft MCA Regulations specify those who a planning authority must consult with before determining the content of any MCA proposals which may be publicised. To what extent do you agree with these groups?

Agree



9 B) Please explain your view.

Text box for answer:

10 A) Draft Regulation 4(2) provides how consultation in relation to a MCA scheme is to be undertaken. To what extent do you agree with this approach?

Strongly Agree

10 B) Please explain your view.

Text box for answer :

We agree with the approach to consultation. the planning authority will be aware of the danger of potentially excluding key community or other stakeholders if it solely relies on internet based consultation however - and indeed though its links with communities and other stakeholders the authority must also 'push' notification of MCAs and not just rely on people reading their websites which are often complex.

Publicity for masterplan consent area scheme proposals

11 A) Draft Regulation 4(5) sets a 30 day period for representations if they are to be treated as valid representations. To what extent do you agree with this period?

Agree

11 B) Please explain your view.

Text box for answer:

We agree that the consultation process must be an appropriate period to ensure stakeholders and communities have the opportunity to comment in detail, while not allowing too lengthy a process that could cause excessive delays and uncertainty. 30 days may be viewed as too short by some representatives and we would not object to a 42 day notice period if the balance of responses felt that 30 days was too short.

Hearings

12 A) To what extent do you agree with the required circumstances, i.e. that where the scheme would authorise a national development, that there be a requirement for a hearing, as set out within Draft Regulation 5(1)?

Agree

12 B) Please explain your view.

Text box for answer:



We broadly agree but this will be a time consuming and expensive process and should be approached on case-by-case basis.

13 A) To what extent do you agree with the proposals for those who must be given an opportunity to appear before and be heard by a committee of the planning authority at a hearing as set out within Draft Regulations 5(2) and (3)?

Agree

13 B) Please explain your view

Text box for answer:

It is a fair process for any unresolved representations to be afforded the opportunity for a hearing by a committee of the planning authority. As noted above, this could be hundreds of representatives as opposed to a handful and there will be a time and resourcing issue associated with this process.

Requirement to notify the Scottish Ministers of certain proposals

14 A) To what extent do you agree that a Notification Direction be issued requiring that in the above circumstances such MCA schemes be notified to the Scottish Ministers?

Agree

14 B) Please explain your view.

Text box for answer:

We are content with the list of proposed circumstances which require notification to Ministers. There must however be a statutory timeframe for Ministers to respond of say 30 days.

Publication of the MCA scheme

15 A) To what extent do you agree with the proposed requirements in relation to the publication of MCA schemes and the decision notice as set out in Draft Regulation 7?

Strongly Agree

15 B) Please explain your view.

Text box for answer:

We strongly agree with the publication of MCA schemes and decision notice for increased transparency and information to public.

Planning Register



16 A) To what extent do you agree with the proposed requirements in relation to the planning register as set out in Draft Regulation 9?

Strongly Agree

16 B) Please explain your view.

Text box for answer:

We agree with the proposal as will help in keeping records and transparency of the process.

Alteration of a MCA scheme

17 A) To what extent do you agree with the proposals for the procedures for altering a MCA scheme, as set out in Draft Regulation 8?

Strongly Agree

17 B) Please explain your view.

Text box for answer:

We agree that alterations and modifications to the MCA scheme should be able to be brought forward as there can be events such as the pandemic, cost of living crisis, increased inflation that can impact on the market. MCAs will have enough flexibility to adapt to these changes. Removing the requirement for public PAC style events will speed up this process.

Prescribed Forms

18 A) To what extent do you agree with the approach not to prescribe forms of notices within the Draft Regulations?

Agree

18 B) Please explain your view.

Text box for answer:

We do not think it is necessary to prescribe forms of notices but would advocate for some guidance on the structure to be made available to planning authorities to assist them in the adoption of MCAs.

Environmental Impact Assessment

19 A) To what extent do you agree with the proposed process set out in the Draft Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 contained within Annex B?



Agree

19 B) Please explain your view.

Text box for answer:

We broadly agree with EIA to be included within MCAs but we are conscious that if this process is front loaded there will be limitations in gauging the impact on the site before the inception of the project. We suggest that should be a coordinated approach for assessment, aligning with regulatory system and with involvement of relevant key agencies.

Impact Assessments

20 A) To what extent do you agree with our approach to the impact assessments?

Strongly Agree

20 B) Please explain your view

Text box for answer:

We support the approach to screening out Impact Assessments taken in this consultation, which in essence is largely focused on the procedures surrounding the establishment of MCAs. The concept of MCAs was thoroughly assessed, debated and ultimately approved by the Scottish Parliament in 2018-19.