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Simplified Planning Zones

Introduction

Simplified planning zones (SPZs) are simply a form of deregulation which achieve their effect by granting planning permission for specified types of development. Conforming schemes can go ahead without a separate planning application being made, thus providing speed and certainty for all parties. The following paper will look at how simplified planning zones operate in other jurisdictions.

England

The legal basis for the creation of Simplified Planning Zones is to be found in Sections 82 to 87 and Schedule 7 of the Town and Country Planning Act 1990, as amended by Schedule 5 to the Planning and Compensation Act 1991.

Subordinate legislation and guidance on SPZs is also found in the Town and Country Planning (Simplified Planning Zones) (Excluded Development) Order 1987 as amended by SI 1996 No. 396, the Town and Country Planning (Simplified Planning Zones) Regulations 1992, and PPG5: Simplified Planning Zones issued by the Government in November 1992. In addition, the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 contain provisions relating to Simplified Planning Zones.

PPG5 'Simplified Planning Zones' (1992) has since been replaced, under the Planning and Compulsory Purchases Act (2004) s45, by the new PPS4¹. PPS4 sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas, which includes the use of simplified planning zones². PPG5 has been reissued as practice guidance alongside PPS4.³

Procedure for SPZ schemes

According to PPG5:⁴

- Local planning authorities have a statutory duty to keep under review the parts of their area where a SPZ scheme is desirable.
- According to the Secretaries of State, authorities should review regularly the scope for SPZ schemes in their areas.
- Anyone can ask a local planning authority to make (or alter) schemes. If the authority refuses, or fails to make a decision within three months, the applicant can require the request to be referred to the Secretary of State, who may direct the authority to make (or alter) the scheme.
- Should an authority not feel able to grant permission to a request for a SPZ scheme, it should provide the applicant with a full statement of reasons.
- SPZs will normally be most appropriate in older urban areas where there is a particular need to promote regeneration and to encourage economic activity. Old industrial sites and sites in single ownership may be particularly suitable for SPZ treatment.
- They may be useful in areas where design flexibility is to be encouraged, such as an extensive tourist operation where frequent investment in new attractions is needed.
- Where sites suitable for SPZ treatment straddle local planning authority boundaries, it is open to the authorities concerned to prepare a scheme jointly.

Format of SPZ schemes

- A SPZ scheme consists of a map and a written statement, and such diagrams, illustrations and descriptive matter as the local planning authority think appropriate.
- A SPZ scheme written statement must specify:
 - a) the development or classes of development permitted by the scheme;

¹ PPS4 replaces *Planning Policy Guidance 4: Industrial, Commercial Development and Small Firms* (PPG4) and *Planning Policy Guidance 5: Simplified Planning Zones* (PPG5) both published on 10 November 1992; *Planning Policy Statement 6: Planning for Town Centres* (PPS6) published on 21 March 2005; and the economic development sections of *Planning Policy Statement 7: Sustainable Development in Rural Areas* (PPS7) published on 3 August 2004.

² PPS4 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement4.pdf>

³ Ibid p. 24

⁴ See PPG5 http://www.leics.gov.uk/index/environment/planning/community_services_planning/planning_general/links.htm

- b) the land in relation to which permission is granted; and
- c) any conditions, limitations or exceptions subject to which it is granted.

Duration

A scheme lasts for a total of 10 years. However, any conforming development started within 10 years of making the scheme does not require a separate planning application. There is nothing to prevent local planning authorities from designating a new SPZ covering the same area of land at that stage.

Relationship with Development Plans

- The authority should indicate in the SPZ written statement the relationship of their SPZ proposals to those of the development plan for the area.
- If it is intended that planning permission for a particular development will be granted by making a SPZ scheme, it should be indicated in the plan's reasoned justification.
- Whilst there are separate procedures for preparation of development plans and SPZs, it may help to process, in the initial stages, an SPZ scheme simultaneously with a development plan, where the latter is making new provision for development (e.g. a new industrial park).
- SPZs should, in any event, be closely related to plan policies and proposals and thereby reflect the social, economic and environmental considerations to which development plans must have regard. Where, exceptionally, proposals depart from the plan in such a way as significantly to prejudice its implementation, a local inquiry will be appropriate (see Annex B, paragraph 3.18).

Compliance with other legislative controls

It should be noted that an SPZ grants only permission, and that all other legislative controls must be complied with, these include the following:

- Environmental health legislation and other environmental protection legislation such as that directly dealing with noise and pollution control;
- Consent to display advertisements;
- Consent for the stopping or diversion of a highway or footpath;
- Approval under the Building Regulations; and
- Authority for any highway works which are to be carried out within the boundaries of the public highway.

Should it be the case that, at the date of adoption, there are no listed buildings, ancient monuments, conservation areas or tree preservation orders located within the area of the SPZ, and designations are subsequently made within the lifetime of the SPZ, development involving any of these would not fall within the SPZ permission, and planning and other associated consents would be required in the normal way.

In respect of environmental assessment, SPZs do not require environmental assessment (EA) under the Environmental Assessment Regulations 1999. A SPZ cannot include development which would require an EA; such types fall under Schedule 1 of the 1999 Regulations. Development of a type listed under Schedule 2 will require EA only if the particular project is likely to have significant effects on the environment due to its nature, size or location. In these cases separate planning applications accompanied by an environmental statement would need to be submitted to the local authority.

Selection of Areas

- There are no restrictions on the size of SPZs.
- SPZs can grant permission for a wide range of major developments or for just one predominant use. Or they might permit a wide range of minor developments including changes of use, extensions and infill development.
- SPZs may include land in local authority or Crown ownership. The arrangements for development by local authorities, or development on their land (described in DOE Circular 19/92 (WO39/92)) do not apply to SPZs. In the case of Crown land, the Crown - like the owners of other land in the area of proposed scheme - must be consulted.
- Areas to be excluded: National Parks, the area of the Broads Authority, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest, approved green belts, conservation areas, or any other area excluded by an order made by the Secretary of State. Other land of significant conservation, landscape, recreational and agricultural value should be avoided.
- SPZ can be classed as either: specific– gives permission which specifically itemises the types of development permitted and the limit imposed, or general - gives a general or wide permission covering almost all types of development but listing the exceptions.

Possible Uses

- Large old industrial areas or estates;
- New employment areas;
- New residential areas;
- Large single ownership sites;
- Redevelopment sites such as large vacant or underused sites; and
- Land requiring provision of service, such as land in association with roads and services e.g. water supply and sewerage facilities.

For more information see PPG5 'Simplified Planning Zones' which outlines the general nature and role of SPZs. Detailed guidance on the 'Use, Content and Effect of SPZs' is given in Annex A, while 'Guidance on SPZ Procedures' is given in Annex B.⁵

Scotland

Section 21A of the Town and Country Planning (Scotland) Act 1972 obliges planning authorities to consider the making of simplified planning schemes. Section 21 A to 21 E, and Schedule 6A of the 1972 Act made provision with regard to these schemes and the SPZ (Scotland) Regulations 1987 established the more detailed procedural requirements. Section 59 and Schedule 11 of the Planning and Compensation Act 1991 (the 1991 Act) made provision for streamlining the procedures under the 1987 Regulations. The relevant provisions are now being implemented, through the Simplified Planning Zone (Scotland) Regulations 1995, which replace the 1987 Regulations.

The guidelines for SPZs appear in Circular 18/1995 'Simplified Planning Zones under the Planning and Compensation Act 1991'. These guidelines under Circular 18 are directly similar to the guidelines under PPG5 in England.⁶

Modifications made in 1995

The new procedures introduced in the guidelines in 1995 (Circular 18/1995) continue to provide for consultation on a proposed scheme, notification, consideration of objections, modification of proposals, and for the involvement of the Secretary of State. The main change in the procedure comes in the consideration of objections; there will no longer be a statutory requirement to have a public local inquiry to consider objections. A planning authority will be able to consider any objections themselves, or appoint a person to consider the objections for them, should they consider a full public local inquiry would not be appropriate.

In streamlining the adoption procedures, the Secretary of State has removed the obstacle which has been cited as the main disincentive for the use of SPZs. In line with Section 21 A of the 1972 Act, planning authorities should now consider whether SPZ schemes can be used to deregulate the planning system within their area and keep this matter under review.

Annex 1 of the Circular offers detailed guidance on the possible uses and advantages of SPZ Schemes; and Annex II outlines the detailed procedures required for adopting or altering such SPZ Schemes.

⁵ PPG5 Simplified Planning Zones (1992) http://www.leics.gov.uk/ppg05_simplified_planning_zones_1992.pdf

⁶ Circular 18/1995 'Simplified Planning Zones' (Scotland) <http://www.scotland.gov.uk/Publications/1995/08/circular-18-1995#a1>

Environmental Assessment

Similar to the conditions in England, SPZ schemes themselves do not require environmental assessment (EA) under the Environmental Assessment (Scotland) Regulations 1998. Consequently, the SPZ Regulations 1995 prescribe that a SPZ cannot include development which would require an EA. Additionally, the Town and Country Planning (Simplified Planning Zones) (Scotland) Order 1995 provides that no SPZ scheme shall have effect to grant planning permission for development requiring EA. Development which falls within any of the descriptions included in Schedule 1 to the 1998 Regulations will always require EA; and, therefore, such projects must be excluded from SPZ schemes. Development of a type listed in Schedule 2 to the 1998 Regulations will require EA only if the particular project is likely to have significant effects on the environment due to such factors as its nature, size or location. Planning authorities should ensure that such developments are also excluded from any SPZ scheme.

Republic of Ireland

Simplified planning zones are known in the RoI as strategic development zones'. A 'strategic development zone' is defined as a site or sites for which a planning scheme has been made and is in force. SDZs are dealt with under Part IX of the Planning and Development Act 2000⁷, which states the following:

Designation and Acquisition of sites

The Government, on foot of a proposal by the Minister for the Environment and Local Government, may designate a particular site or sites for the establishment of a SDZ. The types of development for which a zone may be established include industrial, residential or commercial development which is of importance in a national context.

The Minister, in advance of putting a proposal to the Government to designate a site, must consult with any relevant development agency or local authority.

The order must specify-

- The particular development agency or agencies which will be responsible for the preparation of the draft planning scheme.

- The type or types of development which are to be facilitated by the establishment of the SDZ. Under subsection (5), development which is ancillary to or necessary for the specified types of development is deemed to be included in the order, even if it

⁷ Planning and Development Act 2000 <http://www.irishstatutebook.ie/2000/en/act/pub/0030/index.html>

is not expressly stated to be included by the Government. This includes, for example, necessary infrastructural works to permit the development to proceed.

- The reasons why the type or types of development have been specified and the site or sites have been designated by the Government.

A draft planning scheme must be prepared for the designated site or sites within 2 years of the order being made, therefore an order has an effective life of 2 years. The Government may amend or revoke an order designating a site for the establishment of a SDZ.

Provision enables for land to be acquired (including compulsory acquisition) by the planning authority, or agreements to be made by a development agency to facilitate the establishment of a SDZ.

The planning scheme for SDZs

The draft planning scheme consists of:

- A written statement and a plan indicating how the site is to be developed.
- The types of development to be permitted on the site and their extent and give proposals in relation to design, minimisation of adverse effects on the environment and ancillary infrastructural, community and other development.
- Information on the likely significant environmental impacts of implementing the scheme. This must refer to the environmental impact statement under section 177, insofar as that is relevant to the detail of the scheme.
- Where the draft planning scheme relates to residential development, it must be consistent with the housing strategy prepared by the planning authority in accordance with Part V of the Act. If land within a SDZ is to be used for residential development, a specific objective reserving land for the provision of social and affordable housing must be included in the draft scheme.
- In the event that a designated site, or sites, are situated in two or more planning authorities' areas, the functions stated under Part IX, including the approval of the making of the planning scheme, may be performed jointly by the authorities, or performed by one, having obtained the consent of the other authority or authorities in advance of making a scheme.

Submission of the draft planning scheme

A planning authority is to follow the following procedures when a draft planning scheme is submitted:

- All draft planning schemes must be sent to –
 - the regional authority within whose region the site or sites to which the draft planning scheme applies is or are situated;

- any local authority whose area is within or contiguous to the site or sites to which the draft planning scheme applies; and
 - any planning authority whose area is contiguous to the site or sites to which the draft planning scheme applies.
- The planning authority must also place a notice of the preparation of the draft planning scheme in one or more newspapers circulating in its area. The notice must state that a copy of the draft planning scheme is available for inspection at a particular location or particular locations at particular times. The scheme must be available for inspection for a minimum of 6 weeks.
 - Not more than 12 weeks after the giving of notice of the preparation of a draft planning scheme, the manager of the planning authority must prepare a report for submission to the members of the authority on any submissions or observations received. Members of the planning authority must consider both the draft planning scheme and the report of the manager.
 - The scheme must be made 6 weeks from the date of submission of the scheme and the manager's report to the members of the planning authority – any requests for variation must be resolved within the 6 weeks.
 - The scheme will come into force after a further 4 weeks. However, if an appeal against the decision of the planning authority is made to An Bord Pleanála (the Board), it will not come into force until the appeal is determined.
 - Notification must be made within 6 working days of the decision of the planning authority on the scheme, to the Minister, the Board, the authorities (listed in the section above) and any person who made a submission or observation. A notice must also be published in local newspapers.
 - The development agency involved in the preparation of the draft planning scheme, or any person who made submissions or observations in respect of the draft planning scheme, may appeal the decision of the planning authority on the scheme to the Board.
 - The Board must consider the appeal and make a decision within 18 weeks. If a scheme is approved, notice of the approval must be published in local newspapers.
 - When considering the draft planning scheme, the planning authority or the Board must consider the proper planning and sustainable development of the area, and also -
 - the provisions of the development plan;
 - the provisions of the housing strategy (see also section_168(4));
 - the provisions of any special amenity area order or the conservation or protection of any European site;
 - if appropriate, the effect on any neighbouring land to the land to which the scheme relates;
 - if appropriate, the effect the scheme would have on any place outside the area of the planning authority; and

- if appropriate, any other consideration relating to development outside the area of the planning authority, including any area outside the State.
- A planning scheme is deemed to be part of the development plan for the area, until revoked. Any provision of the development plan which is contrary to the terms of the planning scheme is superseded to the extent necessary to fulfil the terms of the scheme. (sub-section 9)

Revocation of planning scheme

- The planning authority, having received consent from the development agency concerned, may amend or revoke a planning scheme.
- Should a planning authority decide to amend a scheme, the planning authority should treat it as a draft amendment and carry out the procedures as stated in section 169 (see above section 'Submission of the draft planning scheme').
- The Planning authority must publish the revocation in local newspapers.
- Permissions granted in SDZs can be limited or extended, using the same powers for all permissions, under section 40 and 42 respectively.