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## STATUTORY INSTRUMENTS

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# 1991 No. 1220

## The Planning (Northern Ireland) Order 1991

### PART IV

#### PLANNING CONTROL

##### Determination of planning applications

##### **Determination of planning applications**

**25.**—(1) Subject to this Part, where an application is made to the Department for planning permission, the Department, in dealing with the application, shall have regard to the development plan, so far as material to the application, and to any other material considerations, and—

- (a) subject to Articles 34 and 35, may grant planning permission, either unconditionally or subject to such conditions as it thinks fit; or
- (b) may refuse planning permission.

(2) In determining any application for planning permission for development of any class to which Article 21(1) applies, the Department shall take into account any representations relating to that application which are received by it before the expiration of the period of 14 days from the date on which notice of the application is first published in a newspaper.

(3) Where an application for planning permission is accompanied by such a certificate as is mentioned in Article 22(1)(c) or (d), the Department—

- (a) in determining the application, shall take into account any representations relating thereto which are made to it by any person who satisfies it that, in relation to any of the designated land, he is such a person as is described in Article 22(1)(c); and
- (b) shall give notice of its decision on the application to every person who made representations which it was required to take into account under sub-paragraph (a).

##### **[<sup>F1</sup>Power to decline to determine subsequent application**

**25A.**—(1) The Department may decline to determine a relevant application if—

- (a) any of the conditions in paragraphs (2) to (4) is satisfied; and
- (b) the Department thinks there has been no significant change in the relevant considerations since the relevant event.

(2) The condition is that in the period of 2 years ending with the date on which the application mentioned in paragraph (1) is received the Department has refused a similar application under Article 31.

(3) The condition is that in that period the planning appeals commission has dismissed an appeal—

- (a) against the refusal of a similar application; or

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- (b) under Article 33 in respect of a similar application.
- (4) The condition is that—
  - (a) in that period the Department has refused more than one similar application; and
  - (b) there has been no appeal to the planning appeals commission against any such refusal.
- (5) A relevant application is an application for planning permission for the development of any land.
- (6) The relevant considerations are—
  - (a) the development plan so far as material to the application;
  - (b) any other material considerations.
- (7) The relevant event is—
  - (a) for the purposes of paragraphs (2) and (4) the refusal of the similar application;
  - (b) for the purposes of paragraph (3) the dismissal of the appeal.
- (8) An application for planning permission is similar to another application if (and only if) the Department thinks that the development and the land to which the applications relate are the same or substantially the same.]

**F1** Arts. 25A, 25AA substituted (10.6.2006) for art. 25A by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **9(1)** (with (5))

## [<sup>F2</sup>Power to decline to determine overlapping application

**25AA.**—(1) The Department may decline to determine an application for planning permission for the development of any land which is made at a time when any of the conditions in paragraphs (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the Department and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by—

- (a) the Department in pursuance of Article 31; or
- (b) the planning appeals commission on an appeal under Article 32 or 33,

and the Department or, as the case may be, the planning appeals commission, has not issued its decision.

(4) The condition is that a similar application—

- (a) has been granted by the Department;
- (b) has been refused by the Department; or
- (c) has not been determined by the Department within the determination period,

and the time within which an appeal could be made to the planning appeals commission under Article 32 or 33 has not expired.

(5) An application for planning permission is similar to another application if (and only if) the Department thinks that the development and the land to which the applications relate are the same or substantially the same.

(6) The determination period is—

- (a) the period specified by the development order for the determination of the application; or
- (b) such longer period as the applicant and the Department have agreed for the determination of the application.]

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**F2** Arts. 25A, 25AA substituted (10.6.2006) for art. 25A by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **9(1)** (with art. 9(5))

### [<sup>F3</sup> **Assessment of environmental effects**

**25B.**—(1) The Department may by regulations make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development.

(2) The regulations may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any Community obligation of the United Kingdom about the assessment of the likely effects of the development on the environment, under section 2(2) of the European Communities Act 1972.]

**F3** 2003 NI 8

### **Duty to draw attention to certain provisions for benefit of disabled**

**26.**—(1) When granting planning permission for any development which will result in the provision—

- (a) of a building or premises to which section 4 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 applies (buildings or premises to which the public are to be admitted whether on payment or otherwise);
- (b) of a building intended for the purposes of an educational institution;
- (c) of any of the following, being in each case, premises in which persons are employed to work,—
  - (i) office premises and shop premises to which the Office and Shop Premises Act (Northern Ireland) 1966 applies;
  - (ii) premises which are deemed to be such premises for the purposes of that Act; or
  - (iii) factories as defined by section 175 of the Factories Act (Northern Ireland) 1965,

the Department shall draw the attention of the person to whom the permission is granted—

- (i) to the relevant provisions of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978; and
- (ii) to the Code of Practice for Access for the Disabled to Buildings.

(2) In paragraph (1)—

“the Code of Practice for Access for the Disabled to Buildings” has the same meaning as in section 4(1A) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978;

“educational institution” means any of the following—

- (a) a university;
- (b) a school within the meaning of the Education and Libraries (Northern Ireland) Order 1986;
- (c) a college of education or other establishment for the training of teachers maintained in pursuance of Article 66 of that Order or in respect of which grants are paid under that Article; or

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- (d) [<sup>F4</sup>an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997 or an institution providing further education in respect of which grants are paid under Article 5(1)(b) of that Order; and]
- “the relevant provisions of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978” means—
- (a) for the purposes of sub-paragraph (a), sections 4 and 7;
  - (b) for the purposes of sub-paragraph (b), sections 7 and 8(1) and (2); and
  - (c) for the purposes of sub-paragraph (c), sections 7 and 8(1) and (3).

**F4** 1997 NI 15

**Conditional grant of planning permission**

27.—(1) Without prejudice to the generality of Article 25(1), conditions may be imposed on the grant of planning permission—

- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the Department to be expedient for the purposes of or in connection with the development authorised by the permission;
- (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.

(2) Any planning permission granted subject to such a condition as is mentioned in paragraph (1) (b) is in this Order referred to as “planning permission granted for a limited period”.

PROSPECTIVE

**[<sup>F5</sup>Power to impose aftercare conditions on grant of mineral planning permission**

<sup>F6</sup>27A]. . . . .

**F5** Art. 27A inserted (prosp.) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(3)(d), **26**

**F6** [Pts. II-VI repealed \(1.4.2015 except for the repeal of Pt. III\) by Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 7 \(with s. 211\); S.R. 2015/49, art. 3, Sch. 1 \(with Sch. 2\) \(as amended \(16.3.2016\) by S.R. 2016/159, art. 2\)](#)

**Permission to develop land without compliance with conditions previously attached**

28.—(1) This Article applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

- (2) A development order may make special provision with respect to—
  - (a) the form and content of such applications; and
  - (b) the procedure to be followed in connection with such applications.

(3) On such an application the Department shall consider only the question of the conditions subject to which planning permission should be granted, and—

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- (a) if it decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the Department shall grant planning permission accordingly; and
- (b) if it decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the Department shall refuse the application.

(4) This Article does not apply where the application is made after the previous planning permission has become time-expired, that is to say, the previous permission having been granted subject to a condition as to the time within which the development to which it related was to be begun, that time has expired without the development having been begun.

[<sup>F7</sup>(5) Planning permission shall not be granted under this Article to the extent that it has effect to change a condition subject to which a previous planning permission was granted by extending the time within which—

- (a) a development must be begun;
- (b) an application for approval of reserved matters (within the meaning of Article 35) must be made.]

**F7** Art. 28(5) added (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), **10(1)** (with (3))

#### [<sup>F8</sup>Planning permission for development already carried out

**28A.**—(1) On an application made to the Department, the planning permission which may be granted includes planning permission for development carried out before the date of the application.

- (2) Paragraph (1) applies to development carried out—
  - (a) without planning permission;
  - (b) in accordance with planning permission granted for a limited period; or
  - (c) without complying with some condition subject to which planning permission was granted.
- (3) Planning permission for such development may be granted as to have effect from—
  - (a) the date on which the development was carried out; or
  - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.]

**F8** 2003 NI 8

*Art. 29 rep. by 2003 NI 8*

#### Effect of planning permission

**30.**—(1) Without prejudice to Articles 34 to 38, any grant of planning permission to develop land shall (except insofar as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being having an estate therein.

(2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified the permission shall be construed as including permission to use the building for the purpose for which it is designed.

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### Special procedure for major planning applications

**31**<sup>F9</sup>.—(1) Where, in relation to an application for planning permission, or an application for any approval required under a development order, the Department considers that the development for which the permission or approval is sought would, if permitted—

- (a) involve a substantial departure from the development plan for the area to which it relates; or
- (b) be of significance to the whole or a substantial part of Northern Ireland; or
- (c) affect the whole of a neighbourhood; or
- (d) consist of or include the construction, formation, laying out or alteration of a means of access to a trunk road or of any other development of land within 67 metres of the middle of such a road, or of the nearest part of a special road;

the Department may within two months from the date of the application serve on the applicant a notice in such form as may be specified by a development order applying this Article to the application.

(2) For the purpose of considering representations made in respect of an application to which this Article applies, the Department may cause a public local inquiry to be held by the planning appeals commission.

(3) Where a public local inquiry is not held under paragraph (2), the Department shall, before determining the application, serve a notice on the applicant indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service thereof) the applicant so requests in writing, the Department shall afford to him an opportunity of appearing before and being heard by the planning appeals commission.

(4) In determining an application to which this Article applies, the Department shall, where any inquiry or hearing is held, take into account the report of the planning appeals commission.

(5) The decision of the Department on an application to which this Article applies shall be final.

(6) In this Article “road” includes a proposed road and “special road”, “trunk road” and “proposed road” have the same meaning as in the Roads (Northern Ireland) Order 1980.

**F9** mod. SR 1999/73

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