

2013 No. 210

PLANNING

**The Planning (General Development) (Amendment No.2) Order
(Northern Ireland) 2013**

Made - - - - *7th August 2013*

Coming into operation - *30th August 2013*

The Department of the Environment, in exercise of the powers conferred by Article 13 of the Planning (Northern Ireland) Order 1991(a), makes the following Order:

Citation and commencement

1. This Order may be cited as the Planning (General Development) (Amendment No.2) Order (Northern Ireland) 2013 and shall come into operation on 30th August 2013.

Amendment of the Planning (General Development) Order (Northern Ireland) 1993

2. The Planning (General Development) Order (Northern Ireland) 1993(b) shall be amended as follows—

- (a) in Article 2 (interpretation) after the definitions of—
 - (i) “the 1991 Order” insert—
““the EIA Regulations” means the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012(c);”;
 - (ii) “dwellinghouse” insert—
““EIA development” has the meaning assigned to it by regulation 2 of the EIA Regulations;”;
 - (iii) “satellite antenna” insert—
““sensitive area” has the meaning assigned to it in regulation 2 of the EIA Regulations;”;
- (b) in Article 3 (permitted development) after paragraph (7), insert—
“(8) Subject to paragraph (9), Schedule 1 does not grant planning permission for—
 - (a) development within the meaning of Schedule 1 to the EIA Regulations; or
 - (b) development of a description mentioned in column 1 of the table in Schedule 2 to the EIA Regulations; where—
 - (i) any part of the development is to be carried out in a sensitive area; or

(a) S.I. 1991/1220 (N.I. 11)

(b) S.R. 1993 No. 278; relevant amending Orders are S.R. 2005 No. 427, S.R. 2006 No. 218, S.R. 2007 No. 432

(c) S.R. 2012 No. 59

- (ii) any threshold or criterion mentioned in column 2 of the table in Schedule 2 to the EIA Regulations as applicable to development of that description is respectively exceeded or met in relation to that development, unless the Department has given a determination pursuant to regulation 5 of the EIA Regulations that the proposed development is not EIA development.”;
- (c) for Part 6 of Schedule 1 (agricultural buildings and operations) substitute Part 6 as set out in the Schedule.

Sealed with the Official Seal of the Department of the Environment on 7th August 2013.



Angus Kerr

A senior officer of the Department of the Environment

SCHEDULE

Article 2(c)

SUBSTITUTION OF PART 6 OF SCHEDULE 1 TO THE PLANNING (GENERAL DEVELOPMENT) ORDER (NORTHERN IRELAND) 1993

“PART 6

AGRICULTURAL BUILDINGS AND OPERATIONS

Class A

- | | | |
|------------------------------|-----------|--|
| Permitted development | A. | The carrying out on agricultural land comprised in an agricultural unit of— <ul style="list-style-type: none">(a) works for the erection, extension or alteration of a building; or(b) any excavation or engineering operation; reasonably necessary for the purposes of agriculture within that unit. |
| Development not permitted | A.1 | Development is not permitted by Class A if— <ul style="list-style-type: none">(a) the development is on agricultural land less than 0.5 hectares in area;(b) it consists of or includes the erection, extension or alteration of a dwelling;(c) a building, structure or works not designed for the purposes of agriculture is provided on the land;(d) the building or structure to be erected is the first agricultural building on the unit;(e) the nearest part of any building or structure so erected or extended is more than 75 metres from the nearest part of a group of principal farm buildings;(f) the nearest part of any building or structure so erected or extended is less than 75 metres from a dwellinghouse (other than a dwellinghouse of any person engaged in agricultural operations on that unit);(g) the ground area to be covered by—<ul style="list-style-type: none">(i) any works or structure (other than a fence) for the purposes of accommodating livestock or any plant or machinery arising from engineering operations; or(ii) any building erected or any building as extended or altered;
exceeds 500 square metres, calculated as described in paragraph A.2(b);(h) the height of any part of the building, structure or works within 3 kilometres of the |

		perimeter of an aerodrome exceeds 3 metres, or 12 metres in any other case;
		(i) any part of the development is within 24 metres from the nearest part of a special road, or within 24 metres of the middle of a trunk or a first or second-class road or 9 metres from the middle of other classes of road.
Interpretation of Class A	A.2	For the purposes of Class A—
		(a) the area of 0.5 hectares shall be calculated without taking into account any separate parcels of land;
		(b) the ground area referred to in A.1(g) is the ground area which the proposed development covers together with the ground area of any building (other than a dwellinghouse) or any works, structure, plant or machinery within the same unit which is being provided by Class A or has been provided within the preceding two years and any part of which is within 75 metres of the proposed development;
		(c) “agricultural land” has the meaning assigned to it by the Agriculture Act (Northern Ireland) 1949;
		(d) “agricultural unit” means land which is occupied as a unit for the purposes of agriculture other than fish farming but includes any dwellinghouse or other building occupied by the same person for the purpose of farming the land by the person who occupies the same unit;
		(e) “building” does not include anything resulting from engineering operations;
Class B		
Permitted development	B.	The winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.
Development not permitted	B.1	Development is not permitted by Class B if any excavation is within 24 metres of the nearest part of a special road or within 24 metres of the middle of a trunk or a first or second-class road or 9 metres from the middle of other classes of road.
Conditions	B.2	Development is permitted by Class B subject to the conditions—
		(a) that no mineral extracted during the course of the operation shall be moved to any place outside the land from which it is extracted, except to land which is held or occupied with that land and is used for the purposes of agriculture;
		(b) the surface of the land shall be levelled and any topsoil replaced as the uppermost layer;

		(c) the land shall so far as practicable be restored to its former condition before the extraction took place.
Interpretation of Class B	B.3	For the purposes of Class B the expression “purposes of agriculture” includes fertilizing the land used for the purposes of agriculture, and the maintenance, improvement or alteration of any buildings, structures or works occupied or used for such purposes on land so used.
Class C		
Permitted development	C.	The construction, formation, laying out or alteration of a means of access to a road.
Development not permitted	C.1	Development is not permitted in Class C if— <ul style="list-style-type: none"> (a) it is required in connection with development for which a planning application is necessary under Part IV of the 1991 Order; or (b) the land is within a site of archaeological interest.
Class D		
Permitted development	D.	The carrying out on agricultural land comprised in an agricultural unit of works for the erection, extension or alteration of a building or structure for the purpose of— <ul style="list-style-type: none"> (a) the generation (including the co-generation) of energy from anaerobic digestion of biomass; or (b) the storing of digestate; including works for the installation, alteration or replacement of a flue forming part of the anaerobic digestion system.
Development not permitted	D.1	Development is not permitted by Class D if— <ul style="list-style-type: none"> (a) the development is on agricultural land less than 0.5 hectares in area; (b) it consists of or includes the erection, extension or alteration of a dwelling; (c) a building, structure or works not designed for the purposes of anaerobic digestion is provided on the land; (d) the nearest part of any building or structure so erected or extended is more than 75 metres from the nearest part of a group of principal farm buildings; (e) the nearest part of any building or structure so erected or extended is less than 75 metres from a dwellinghouse (other than a dwellinghouse of any person engaged in agricultural operations on that unit); (f) the ground area to be covered by any building or structure erected or any building or structure as extended or altered, would exceed 500 square metres, calculated as described in paragraph D.2(a);

- (g) the height of any part of the building, structure or works within 3 kilometres of the perimeter of an aerodrome exceeds 3 metres, or 12 metres in any other case;
- (h) any part of the development is within 24 metres from the nearest part of a special road, or within 24 metres of the middle of a trunk or a first or second-class road or 9 metres from the middle of other classes of road;
- (i) the total capacity of the anaerobic digestion system exceeds—
 - (i) 200 kilowatts in relation to the generation of electricity; and
 - (ii) 285 kilowatts thermal in relation to the production of heat;
- (j) feedstock not produced on land within the agricultural unit is used in the anaerobic digestion system;
- (k) feedstock not produced on land within the agricultural unit is stored within that unit;
- (l) it would result in more than one anaerobic digestion system within the agricultural unit.

Interpretation of Class D

D.2

For the purposes of Class D—

- (a) the ground area referred to in D.1(f) is the ground area which the proposed development covers together with the ground area of any building or structure previously provided for the purposes of anaerobic digestion;
- (b) “agricultural land” has the meaning assigned to it by the Agriculture Act (Northern Ireland) 1949;
- (c) “agricultural unit” means land which is occupied as a unit for the purposes of agriculture other than fish farming but includes any dwellinghouse or other building occupied by the same person for the purpose of farming the land by the person who occupies the same unit.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Planning (General Development) Order (Northern Ireland) 1993 (“the 1993 Order”).

Article 2 inserts definitions of “the EIA Regulations”, “EIA development” and “sensitive area” into Article 2 of the 1993 Order and inserts paragraph (8) of Article 3 to that Order. The inserted provision provides that the 1993 Order cannot grant planning permission for development falling within the scope of the EIA Regulations unless the Department of the Environment has determined that the proposed development is not EIA development.

The Schedule to this Order amends by substitution Part 6 of Schedule 1 to the 1993 Order. The main changes are an increase of the size limitation of permitted development rights for agricultural buildings from 300m² to 500m² and the introduction of new permitted development rights for anaerobic digesters on agricultural units.

A regulatory impact assessment has been prepared in relation to this Order. A copy may be obtained from the Department of the Environment, Millennium House, 17-25 Great Victoria Street, Malone Lower, Belfast BT2 7BN (Tel: 028 90416967) or accessed at www.doeni.gov.uk.

The Explanatory Memorandum is available alongside the Order on the government’s website www.legislation.gov.uk.

© Crown copyright 2013

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

STATUTORY RULES OF NORTHERN IRELAND

2013 No. 210

PLANNING

The Planning (General Development) (Amendment No.2) Order
(Northern Ireland) 2013

£5.75

N5919 08/2013 435919T 19585

ISBN 978-0-337-99175-2



9 780337 991752