

**EXPLANATORY MEMORANDUM TO
THE PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER (NORTHERN
IRELAND) 2015**

2015 No. 70

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of the Environment to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 This Statutory Rule is made under sections 32 and 247(6) of the Planning Act (Northern Ireland) 2011 and is subject to the negative resolution procedure.
- 1.3 The Rule is due to come into operation on 1 April 2015.

2. Purpose

- 2.1 The main purpose of this Statutory Rule is to grant planning permission for certain classes of development described in the Schedule to the Order. It brings together, with some necessary updating and amendment, the classes of permitted development described in Schedule 1 to the Planning (General Development) Order 1993 and subsequent amendments relating to permitted development made under the Planning (Northern Ireland) Order 1991.

3. Background

- 3.1 Permitted development grants a general planning permission for certain, often minor, non-contentious types of development, removing the need to apply for planning permission. This Rule gives expression to those permitted development rights subject to relevant exceptions, limitations and conditions set out in Article 3 and contained within the Parts and Classes of the Schedule to this Order.
- 3.2 Article 2 sets out the meaning of certain terms used in the Order, explaining certain references and providing for the use of electronic communication.

Article 3 grants planning permission for the classes of development in the Schedule, otherwise known as permitted development. It also contains a number of qualifications, exclusions and exceptions to the permission so granted.

Article 4 provides for Directions to restrict permitted development in the interests of local amenity. A Direction issued under this Article brings particular categories of development in specified geographical areas back under full planning control until cancelled.

Article 5 provides for the serving or publishing of notices of any Direction made under Article 4.

Article 6 provides for the cancelling of any Direction made under Article 4.

Article 7 provides for Directions to restrict permitted development for mineral exploration under Part 16 of the Schedule.

Article 8 sets out transitional provisions so that anything done by, to or in relation to the Department in connection with its functions under Schedule 1 of the Planning (General Development) Order (Northern Ireland) 1993 shall be treated as if it had been done by, to or in relation to the appropriate council under the Schedule to this Order

The Schedule to the Order sets out the parts and classes of development described as permitted development and their relevant associated exceptions, limitations and conditions.

4. Consultation

- 4.1 This Rule is a technical provision ancillary to wider subordinate legislation proposals set out in the consultation on planning reform and transfer of planning powers to local government under the Planning Act (Northern Ireland) 2011. It does not alter the policy principle of permitted development nor, apart from the need to reflect modern legislative and other references, does it change the individual descriptions, exclusions, limitations or conditions of the permitted development rights previously provided by the Planning (General Development) Order (NI) 1993, as amended. The Department therefore did not subject the consolidation to public consultation

5. Equality Impact

- 5.1 Equality Impact Screenings carried out in respect of these proposals found no evidence of any differential impact on any of the section 75 categories.

6. Regulatory Impact

- 6.1 A Regulatory Impact Assessment carried out in respect of the changes is attached to this memorandum at Annex A.

7. Financial Implications

- 7.1 This Order will continue to give potential savings to applicants if their development is considered to be permitted development. Applicants will still have to make sure their development complies with any environmental and other consents that may be needed, including building regulations etc, but they will not incur the application fees for planning permission and the administrative costs incurred in submitting an application. Nor does the Rule impose any additional operating costs on council planning authorities.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department has considered the matter of Convention rights and Community Law and is satisfied that there are no matters of concern.

9. EU Implications

9.1 There are no EU transpositional implications.

10. Parity or Replicatory Measure

10.1 This is not a parity or replicatory measure.

11. Additional Information

11.1 None.

REGULATORY IMPACT ASSESSMENT

Permitted Development

1. Title of Proposal

The Planning (General Permitted Development) Order (Northern Ireland) 2015

2. Purpose and intended effect of measure

i) The objective:

The main objective of the Statutory Rule is to consolidate the existing amendments to the Planning (General Development) Order 1993, update legislative references and facilitate District Council management of permitted development through Article 4 Directions. It will thereby enable the new planning system to regulate both householder and non-householder developments in a productive and beneficial manner. The new Statutory Rule aims therefore to:

- be easy to understand;
- be proportionate to the anticipated impacts of such development;
- be simple and economic to operate for both developers and planning administration; and
- manage impacts upon local amenity and environmental interests, including the built heritage.

The proposed consolidation will only affect Northern Ireland.

ii) The background:

Key changes are to consolidate existing **permitted development** rights for a range of domestic and non-domestic land uses

iii) Risk Assessment and Rationale for Government Intervention:

This Statutory Rule is a technical provision ancillary to wider subordinate legislation proposals set out in the recent consultations on planning reform and transfer of planning powers to local government under the Planning Act (Northern Ireland) 2011. In essence it is a consolidatory measure bringing together the permitted development provisions of the Planning (General Development) Order (Northern Ireland) 1993 and relevant subsequent amendments.

Permitted development grants a general planning permission for certain, often minor, non-contentious types of development removing the need to apply for planning

permission. Over the past three years the Department has comprehensively overhauled the system of permitted development rights in Northern Ireland to extend its scope for householders, business and industry.

It has introduced a wide range of permitted development changes including small-scale domestic and commercial renewable energy projects, house extensions, caravan sites, industrial and warehouse buildings, shops, offices, schools, colleges, universities and hospitals, and for the demolition of buildings, for street trading, statutory undertakers and telecommunications development as well as agricultural buildings and small-scale on farm anaerobic digestion plant. Most recently the Department brought into operation new permitted development for domestic air-source heat pumps and ancillary development within existing mine and quarry sites.

The approach to the extension of permitted development has been based on the likely amenity impact beyond the development concerned. Unnecessary controls have been removed from householders and businesses, whilst maintaining appropriate safeguards to protect local environmental quality and amenity.

The Department does not propose to further amend permitted development as part of this Statutory Rule as the recent changes need time to bed in. However, it is important that the many amending Statutory Rules dealing with permitted development made under the repealed Planning (Northern Ireland) Order 1991 and that give expression to those permitted development reforms are consolidated into an easily read and referenced piece of legislation that restates the various types of permitted development and their associated limitations and conditions. It is also important that this is done in time for the transfer of planning powers to district councils.

The Department has therefore brought forward a new General Permitted Development Order to come into operation on transfer of planning powers to district councils on 1 April 2015.

While there will be some slight procedural amendment to empower a district council to restrict or remove permitted development rights in the interests of local amenity, the new Order is an essentially technical piece of work that will not alter the policy principle of permitted development nor, apart from the need to reflect modern legislative and other references, will it change the individual descriptions, exclusions, limitations or conditions of the permitted development rights currently set out in the Planning (General Development) Order (NI) 1993.

3. Options Appraisal

Option 1 – Do Nothing

The current provisions set out in the GDO fall with the repeal of the enabling powers contained in the 1991 Order to provide for General Development Orders. This is not considered to be an appropriate option as it fails to achieve the Department's objectives of ensuring that existing permitted development rights can continue to operate from 1 April 2015.

Option 2 – Consolidation under the 2011 Act

The new GPDO is drafted in line with the proposals summarised in the rationale for government intervention above.

4. Costs and Benefits

Unlikely to be any compliance costs. Permitted development is seen to be a deregulatory mechanism removing the need to complete and submit a planning application along with any associated fee. Thus it is of direct benefit to the person intending to undertake the permitted development.

Option 1: Do Nothing

Without a valid system of permitted development all development proposals no matter how small would be subject to the need for planning permission on foot of an application. Significant compliance cost would therefore ensue.

Option 2: Drafting of a new consolidated Permitted Development Order

Maintenance of an effective system of permitted development means that the deregulatory benefits of such a system continue to be enjoyed. Applicants will still have to make sure their development meets all other relevant consenting regime requirements including building regulations etc, but they will not incur the application fees for planning permission or the administrative costs incurred in submitting a planning application.

5. Sectors and Groups Affected

The main sectors and groups affected are planning authorities, planning application specialists (includes architects, technicians, town planning consultants), industry and commercial sectors and householders.

Society is also indirectly affected by the impacts that permitted development rights might have on those living and working in close proximity to the development as well as wider environmental and social issues.

6. Enforcement and Sanctions

The planning enforcement regime will continue to operate in the same way as it does currently. Available sanctions will include powers to compel developers to submit a planning application for works which require planning permission and powers to stop construction work and require the demolition or rebuilding of works which are unacceptable. All such sanctions are subject to the right of appeal by the affected developer.

7. Consideration of Impacts

Equality Impact Assessment

An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any additional impact on any of the Section 75 categories.

Health Impact

No impact on health has been identified.

Small Firms Impact Test

The SR maintains the benefits that small firms enjoy under the current permitted development arrangements. This includes developers carrying out development with the removal of the bureaucracy involved, and greater speed from inception of the project to completion. The indirect benefits to businesses that manufacture, supply and fit materials for industry and commerce and for householder development will continue to apply.

Human Rights Assessment

The Department considers that the proposed amendments are fully compliant with the Human Rights Act 1998.

Rural Impact Assessment

There will be no significant differential impact of the proposals between urban and rural areas because of the specific scope and technical nature of the changes.

8. Monitoring and Review

The introduction of a new planning regime will require permitted development to be reviewed to determine whether the ongoing deregulatory benefits remain appropriate. The overarching aim of previous changes to the GDO has been to expand the scope of both householder and non-householder development. In this context the permitted development regime will be the subject of future review, when the new planning system has had an opportunity to bed down following transfer of the majority of planning powers to district councils in 2015.

9. Consultation

The new Order is an essentially technical piece of work that does not alter the policy principle of permitted development nor, apart from the need to reflect modern legislative and other references, does it change the individual descriptions, limitations or conditions of the permitted development rights currently set out in the Planning (General Development) Order (NI) 1993 (as amended). As such it was not subject to specific separate public consultation although previous amendments which are consolidated by this Rule have been the subject of such public consultation.

10. Summary and Recommendations

Option 2 is the recommended option as it enables the existing deregulatory measures enshrined in the Planning (General Development) Order (NI) 1993 (as amended) to continue under the Planning (General Permitted Development) Order 2015 in the context of a planning system in which district councils are planning authorities from 1st April 2015.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment.



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Date: 25 February 2015
Angus Kerr
Planning Policy Division
Department of the Environment
Causeway Exchange
1-7 Bedford Street
Town Parks
Belfast
BT2 7EG