

2015 No. 71

PLANNING

**The Planning (Development Management) Regulations
(Northern Ireland) 2015**

Made - - - - - *25th February 2015*

Coming into operation - - - - - *1st April 2015*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by sections 25(2), 26(1), 27(4) and (5), 30(1), 31(1) and (3), 50(2) and 247(1) and (6) of the Planning Act (Northern Ireland) 2011(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Planning (Development Management) Regulations (Northern Ireland) 2015 and come into operation on 1st April 2015.

(2) In these Regulations a reference to a section is a reference to a section of the Planning Act (Northern Ireland) 2011.

(3) In these Regulations—

“the GDPO” means the Planning (General Development Procedure) Order (Northern Ireland) 2015(b);

“appointed officer” means a person appointed by the council for the purposes of section 31(1)(a);

“appropriate council” means the council for the district in which the land to which the application relates is situated;

“council” means a district council;

“EIA development” has the same meaning as in regulation 2 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015(c).

Hierarchy of Developments

2.—(1) For the purposes of section 25(1)(hierarchy of developments) the classes of development belonging to the category of major development are—

(a) development described in Column 1 of the table in the Schedule, where any applicable threshold or criterion in the corresponding entry in Column 2 of that table is met or exceeded; and

(a) 2011 c.25 (N.I.).
(b) SR 2015 No.72.
(c) SR 2015 No.74.

- (b) any change to or extension of development of a class described in paragraphs 1 to 9 of Column 1 of the table in the Schedule where that change or extension itself meets or exceeds the threshold or criterion in the corresponding entry in Column 2 of that table.
- (2) All other development belongs to the category of local development.

Department’s jurisdiction in relation to developments of regional significance

3. The major development prescribed for the purposes of section 26(1) is—
- (a) development described in Column 1 of the table in the Schedule, where any applicable threshold or criterion in the corresponding entry in Column 3 of that table is met or exceeded; and
 - (b) any change to or extension of development of a class described in paragraphs 1 to 5 of Column 1 of the table in the Schedule where that change or extension itself meets or exceeds the threshold or criterion in the corresponding entry in Column 3 of that table.

Content of proposal of application notice

4. A proposal of application notice must be in writing and must, in addition to those matters required by section 27(4), also contain—
- (a) a copy (where applicable) of any determination made under regulation 7(1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates;
 - (b) a copy of any notice served by the Department under section 26(4) or (6); and
 - (c) an account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take.

Pre-application community consultation

5.—(1) Where the prospective applicant has been served with a notice under section 26(4), the Department must consult the appropriate council as respects a proposed application and in doing so, must give a copy of the proposal of application notice to that council.

- (2) The prospective applicant must—
- (a) hold at least one public event in the locality in which the proposed development is situated where members of the public may make comments to the prospective applicant as regards the proposed development; and
 - (b) publish in a newspaper circulating in the locality in which the proposed development is situated a notice containing—
 - (i) a description of, and the location of, the proposed development,
 - (ii) details as to where further information may be obtained concerning the proposed development,
 - (iii) the date, time and place of the public event,
 - (iv) a statement explaining how, and by when, persons wishing to make comments to the prospective applicant relating to the proposal may do so, and
 - (v) a statement that comments made to the prospective applicant are not representations to the council or as the case may be the Department and if the prospective applicant submits an application there will be an opportunity to make representations on that application to the council or as the case may be the Department at a later stage.

(3) A public event held by the prospective applicant in accordance with paragraph (2)(a) must not be held earlier than 7 days after notification of the date, time and place of such event is given under paragraph (2)(b)(iii).

Duty to decline to determine application where section 27 not complied with

6. The period prescribed for the purposes of section 50(2) is the period of 21 days beginning with the day on which the additional information referred to in that subsection was requested.

Pre-determination hearings

7.—(1) The classes of development prescribed for the purposes of section 30(1) are those developments to which a direction under Article 17 of the GDPO applies where the Department has notified the council that it does not intend to determine the application under section 29(1).

(2) The persons who submit representations to the council in respect of the application in accordance with paragraph (1) are prescribed for the purposes of section 30(1), as persons to whom the council are to give an opportunity of appearing before and being heard by a committee of the council.

Content of scheme of delegation

8.—(1) A scheme of delegation must—

- (a) describe the classes of local development to which the scheme applies; and
- (b) state with respect to every such class which of the applications mentioned in paragraph (2) are to be determined by an appointed officer and, if such application is only to be so determined in particular circumstances, specify those circumstances.

(2) The applications are—

- (a) an application for planning permission; or
- (b) an application for consent, agreement or approval required by a condition imposed on a grant of planning permission.

(3) A scheme of delegation must include provision that prohibits an appointed officer from determining an application for planning permission in the circumstances mentioned in paragraph (4).

(4) The circumstances are that—

- (a) the application is made by the council or an elected member of the council; or
- (b) the application relates to land in which the council has an estate.

Procedure for the preparation and adoption of scheme of delegation

9. The council must send a copy of the scheme of delegation to the Department and must not adopt the scheme until the scheme has been approved by the Department.

Publication of the scheme

10. On adoption of the scheme the council must—

- (a) make a copy of the scheme of delegation available for inspection at an office of the council; and
- (b) publish the scheme of delegation on the website of the council.

Subsequent schemes of delegation

11. The council must prepare a scheme of delegation at intervals of no greater than three years.

Transitional provision

12. Section 27 (pre-application community consultation) applies only to applications for planning permission made on or after 1st July 2015 and the requirement in Article 3(3)(e) of the GDPO shall not apply before that date.

Sealed with the Official Seal of the Department of the Environment on 25th February 2015



Angus Kerr
A senior officer of the
Department of the Environment

SCHEDULE

Regulations 2 and 3

Major Development Thresholds

1. In the Table below—

“airport” has the meaning assigned to it in Article 2(2) of the Airports (Northern Ireland) Order 1994(a)

“area of works” includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation;

“floor space” means floor space in a building or buildings;

2. The Table below sets out the classes of development belonging to the category of major development.

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
<u>1.EIA development</u>	Development of a description in paragraphs; 1, 3, 4, 5, 6, 11, 12, 15, 17, 18, 22, 23 and 24; mentioned in Schedule 1 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.	Development of a description in paragraphs 1, 3, 22, 23 and 24 mentioned in Schedule 1 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.
<u>2. Energy Infrastructure</u>		
Electricity generating stations	<p>1. The construction of an electricity generating station where its capacity is or exceeds 5 megawatts.</p> <p>2. All onshore development associated with the construction of an offshore electricity generating station.</p>	<p>1. The construction of an electricity generating station where its capacity is or exceeds 30 megawatts.</p> <p>2. All onshore development associated with the construction of an offshore electricity generating station with a capacity which is or exceeds 30 megawatts.</p>
Electrical power lines	The installation of an electrical power line where the voltage exceeds 33 kilovolts if the purpose of the line is the provision of a supply to more than one customer.	The installation of an electrical power line where the voltage: <p>-is 110 kilovolts double circuit overhead line; or</p> <p>-is or exceeds 275 kilovolts, and a length of more than 15 kilometres.</p>

(a) S.I. 1994/426 (N.I.1).

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
Storage	<p>1. Installations for the storage of petroleum, petrochemical, chemical products or natural gas where the storage capacity of the facility is expected to be 30,000 tonnes or more.</p> <p>2. Installations for the underground geological storage of petroleum, natural gas, carbon dioxide or compressed air energy storage.</p>	<p>1. Installations for the storage of petroleum, petrochemical, chemical products or natural gas where the storage capacity of the facility is expected to be 200,000 tonnes or more.</p> <p>2. Installations for the underground geological storage of petroleum, natural gas, carbon dioxide or compressed air energy storage.</p>
Extraction	<p>1. Any proposal relating to the extraction of unconventional hydrocarbons.</p> <p>2. The extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 250 tonnes per day in the case of petroleum and 250,000 cubic metres per day in the case of gas.</p>	<p>1. Any proposal relating to the extraction of unconventional hydrocarbons.</p> <p>2. The extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.</p>
Pipelines	<p>Pipelines with a diameter of more than 400 millimetres or more than 20 kilometres in length:</p> <p>-for the transport of gas, oil or chemicals, or</p> <p>-for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.</p>	<p>Pipelines with a diameter of more than 800 millimetres or more than 40 kilometres in length:</p> <p>-for the transport of gas, oil or chemicals, or</p> <p>-for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.</p>
<u>3. Transport infrastructure.</u> Construction of new or replacement railways, airports, harbours and ports, waterways, transit ways.	<p>The areas of work is or exceeds 1 kilometre in length or 1 hectare.</p>	<p>a) construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more;</p> <p>b) inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes;</p> <p>or</p> <p>c) trading ports, piers for loading and unloading connected to land outside ports (excluding ferry piers) which</p>

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
		can take vessels of over 1,350 tonnes.
<u>4. Waste infrastructure.</u>		
Construction of facilities for use for the purpose of waste management, disposal or treatment.		
Waste Management Facilities	<p>1. An installation for the disposal, treatment or recovery of hazardous waste with a capacity for an annual intake of or more than 25,000 tonnes.</p> <p>2. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive 2008/98/EC under heading D9(a)) of non-hazardous waste with a capacity exceeding 100 tonnes per day.</p>	<p>1. An installation for the disposal, treatment or recovery of hazardous waste with a capacity for an annual intake of or more than 100,000 tonnes.</p> <p>2. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive 2008/98/EC under heading D9) of non-hazardous waste with a capacity for an annual intake exceeding 100,000 tonnes.</p>
Waste Water	Waste water treatment plants with a capacity exceeding 50,000 population equivalent as defined in Article 2 point (6) of Directive 91/271/EEC.	Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Directive 91/271/EEC(b).
<u>5. Minerals</u>		
Extraction of minerals	The area of the site is or exceeds 2 hectares.	<p>a) development involving quarries or open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares; or</p> <p>b) development involving underground mining where the surface of the site exceeds 2 hectares.</p>
<u>6. Housing.</u>		
Construction of buildings structures or erections for use as residential accommodation;	<p>a) development that comprises 50 units or more; or</p> <p>b) the area of the site is or exceeds 2 hectares.</p>	

(a) O.J. No.L312, 22.11.08, p.3.

(b) O.J. No. L135, 30.5.91, p.40.

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
includes private schemes.		
<u>7. Retailing, Community, Recreation and Culture.</u> (according to Parts A and D of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015 ^(a)). Including shops, financial, professional and other services, community and cultural uses, and assembly and leisure.	a) development that comprises 1,000 square metres or more gross floor space outside town centres; or b) the area of the site is or exceeds 1 hectare.	
<u>8. Business, Industry (Light and General), Storage and Distribution.</u> (according to Part B of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015	a) development that comprises 5,000 square metres or more gross floor space; or b) the area of the site is or exceeds 1 hectare.	
<u>9. All other development.</u> Any development not falling wholly within any single class of development described in Parts 1 to 8 above.	a) development that comprises 5,000 square metres or more gross floor space; or b) the area of the site is or exceeds 1 hectare.	

(a) S.R. 2015 No. 40.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations make provision for the new development management processes for determining planning applications. The statutory rule puts in place the regulatory framework required to implement the development management provisions in Part 3 of the Planning Act (Northern Ireland) 2011 (“the 2011 Act”).

Regulation 2 prescribes the classes of major development.

Regulation 3 prescribes the classes of major development that are considered to potentially be developments of regional significance.

Regulation 4 makes provision regarding the content of the proposal of application notice required under section 27(4) of the 2011 Act.

Regulation 5 sets out the prescribed manner of pre-application community consultation which an applicant will have as a minimum to undertake. This requires the holding of a public event and publication of the proposed event in a local newspaper.

Regulation 6 prescribes the time period for requesting additional information where section 27 of the 2011 Act may not be complied with.

Regulation 7 prescribes the classes of development in respect of applications for which a council must hold a hearing before reaching a decision and provides who is to be given an opportunity to appear before the committee of the council.

Regulations 8-11 relate to schemes of delegation. Section 31 of the 2011 Act requires a council to prepare a scheme of delegation by which applications for planning permission for local development and for consent, agreement or approval required by a condition imposed on a grant of planning permission are to be determined by an appointed person. This person is defined in regulation 1 as the “appointed officer”. Regulation 8 makes provision in relation to the content of the scheme of delegation and prescribes the circumstances that prohibit an appointed officer from determining an application for planning permission. Regulation 9 requires the council to send a copy of the proposed scheme of delegation to the Department and it may not adopt the scheme until it has been approved by the Department. Regulation 10 sets out the manner of publication of the adopted scheme. Section 31(1)(a)(ii) of the 2011 Act requires a council to prepare a scheme of delegation at such intervals as may be provided for in regulations and regulation 11 sets this period at no greater than every 3 years.

Regulation 12 makes a transitional provision.

The Schedule to these Regulations prescribes the classes of development for the purposes of regulations 2 and 3.

A regulatory impact assessment has been prepared in relation to these Regulations. A copy may be obtained from the Department of the Environment, Causeway Exchange, 1-7 Bedford Street, Belfast, BT2 7EG or accessed at www.doeni.gov.uk

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

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