

**EXPLANATORY MEMORANDUM TO
THE PLANNING (GENERAL DEVELOPMENT) (AMENDMENT) ORDER
(NORTHERN IRELAND) 2014**

2014 No. 31

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 Article 13 of the Planning (Northern Ireland) Order 1991 and is subject to the negative resolution procedure.
- 1.3 The Rule is due to come into operation on 10 March 2014.

2. Purpose

- 2.1 This Order expands the scope of permitted development by amending the Planning (General Development) Order (NI) 1993 (S.R. 1993 No. 278 as amended) (the "GDO") by –
 - amending Part 1A of Schedule 1 (Installation of Domestic Microgeneration Equipment) by adding Class G to provide permitted development rights for the installation, alteration or replacement of an air source heat pump within the curtilage of a dwellinghouse;
 - adding a new Part 16A to introduce permitted development rights for development ancillary to mining operations. Article 2(2) inserts definitions into Article 2 of the GDO in respect of this Part.

3. Background

- 3.1 In Northern Ireland permitted development rights are provided by the GDO to allow certain, often minor, non-contentious types of development to proceed without the need for a planning application as planning permission is granted by virtue of Article 3. Such rights help to reduce the number of planning applications and the regulatory burden on the planning system.

4. Consultation

- 4.1 The legislative amendments derive from public consultation exercises on a range of proposals for non-householder and microgeneration permitted development rights that were undertaken during 2009/10. Although overall the respondents were generally supportive of the recommendations set out in the consultation document a number of issues were raised relating to amenity impact, particularly in relation to noise. Following further research and policy development the Department has decided to introduce new permitted

development rights for air source heat pumps within the curtilage of a dwellinghouse and for development ancillary to a mine based on the original proposals and refined to address potential adverse amenity impact.

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 The changes to the GDO will give potential savings to applicants if their development is considered to fall within the classes described as permitted development in Schedule 1 to the GDO. Applicants will still have to make sure their development satisfies the need for any other additional consents, including building regulations etc, but they will not incur the application fees for planning consent and the administrative costs incurred to submit an application. It is uncertain whether the extended PD rights will lead to an increase in applications for Certificates of Lawful Use and Development should developers wish to have written confirmation that their development is permitted. However, any resulting costs to business should be minimal.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the legislation complies with the requirements of section 24 of the Northern Ireland Act 1998.

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.

12. Contact

12.1 Please direct any queries to Joe Torney at the Department of the Environment

Tel: 028 90256505 or email joe.torney@doeni.gov.uk

REGULATORY IMPACT ASSESSMENT (FINAL)
Permitted Development**1. Title of Proposal**

The Planning (General Development) (Amendment) Order (Northern Ireland) 2014

2. Purpose and intended effect of measure**i) The objective:**

The main objective of the Statutory Rule is to deliver proposals that improve the ability of the Planning (General Development) Order (Northern Ireland) 1993 (“the GDO”) to grant planning permission and thereby enable the planning system to regulate both householder and non-householder developments in a more productive and beneficial manner. The revisions to permitted development rights in the GDO therefore aim 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 changes to the GDO will only affect Northern Ireland.

ii) The background:

Key changes are to introduce new **permitted development** rights for:

- a) the installation, alteration or replacement of an **air source heat pump** within the curtilage of a **dwellinghouse**; and
- b) development ancillary to **mining operations**.

iii) Risk Assessment and Rationale for Government Intervention:

In the “Reform of the Planning System” the Department set out the aims and objectives of reform as improving the Northern Ireland economy, while promoting social inclusion, sustainable communities and personal health and well being as well as promoting viable and vital towns and cities and helping to create shared spaces accessible to all and where people can live, work and socialise. We must also balance this with protecting the environment and heritage and contributing to sustainable development.

The reform paper set out the measures intended to improve all aspects of the planning system including development management, enforcement and regulation of householder development. It recognises that the key focus for development management is proportionality and developing ways to deal with different types of development in different ways. This includes reducing bureaucracy for local and minor developments.

There are several key inefficiencies with the current system, which could be improved to the benefit of both the planning authority and those currently having to submit applications for planning consent. In some instances some of the development that requires planning permission may have no significant impacts and therefore resource costs for both the planning authority and the applicant could have been avoided. This further adds to the number of applications that the planning authority has to deal with, which increases pressure on the authority and potentially diverts resources away from dealing with developments that have more significant impacts and greater benefit to the economy. This could have an effect on the time taken to determine applications.

3. Options Appraisal

Option 1 – Do Nothing

The current provisions set out in the GDO would continue to apply. This is not considered to be an appropriate option as it fails to achieve the Department's objectives of further reform of the permitted development regime.

Option 2 – Changes to the GDO

The GDO would be changed in line with the proposals summarised below. A range of options for change were examined. Having reviewed the current GDO and having examined the options this provided a basis for proposing the following changes to the GDO:

- amend Part 1A of Schedule 1 (Installation of Domestic Microgeneration Equipment) by adding Class G to provide permitted development rights for the installation, alteration or replacement of an air source heat within the curtilage of a dwellinghouse;
- insert a new Part 16A to introduce permitted development rights for development ancillary to mining operations.

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 will be of direct benefit to the person intending to undertake the permitted development.

Option 1: Do Nothing

There are no additional economic benefits or costs. Planning administration would continue to allocate resources to processing applications that have low impacts. If such applications were to increase, this could impact upon the planning administration's ability to process efficiently applications for developments which are of greater strategic or economic importance.

Option 2: Changes to the GDO

Greater clarification and increased scope of the GDO will give potential savings to applicants if their development is considered to be PD. These 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 and the administrative costs incurred to submit an application. It is uncertain whether extended permitted development rights will lead to an increase in applications for CLUDs should developers wish to have written confirmation that their development is permitted.

5. Sectors and Groups Affected

The main sectors and groups affected are the planning authority, planning application specialists (includes architects, technicians, town planning consultants, district councils), the quarry/mining industry and householders. Society is also indirectly affected by the impacts that changes to the GDO 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 Department's enforcement regime will continue to operate in the same way as it does with existing permitted development rights. Available sanctions 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 proposed changes to the GDO would remove some of the regulatory burden from the many small businesses. The simplification of the regulations may result in an increase in developers carrying out development with the removal of the bureaucracy involved, and greater speed from inception of the project to completion. There may be indirect benefits to businesses that manufacture and/or install plant and machinery for mining operations and air source heat pumps.

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 for this development type will require to be monitored to determine whether the aims of undertaking the review and subsequent amendments are met. The overarching aim 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 range of permitted development rights have had an opportunity to bed down following transfer of planning powers to district councils in 2015.

9. Consultation

The legislative amendments derive from public consultation exercises on a range of proposals for non-householder and microgeneration permitted development rights that were undertaken during 2009/10. Although overall the respondents were generally supportive of the recommendations set out in the consultation document a number of issues were raised relating to amenity impact, particularly in relation to noise. Following further research and policy development the Department has decided to introduce new permitted development rights for air source heat pumps within the curtilage of a dwellinghouse and for development ancillary to a mine based on the original proposals and refined to address potential adverse amenity impact.

10. Summary and Recommendations

Option 2 is the recommended option as it will improve the ability of the GDO to grant planning permission for the classes of development identified in the proposals and so enable the planning system to regulate development in a more proportionate and effective manner. The proposed changes to the GDO will only affect Northern Ireland and have emerged from NI specific research into issues relating to the current regime.

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: 10 February 2014

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