

EXPLANATORY MEMORANDUM TO
THE PLANNING GENERAL REGULATIONS (NORTHERN IRELAND) 2015
S.R. 2015 No. 39

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under section 71 of the Planning Act (Northern Ireland) 2011 (the 2011 Act) and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations provide that an application for planning permission by a council itself, or by a council jointly with another person, shall be determined by that council unless the application is called in by the Department under a Direction made under section 29 of the 2011 Act for determination by it.
- 2.2 The Regulations also provide a procedure for advertising and serving notice of an unopposed order revoking or modifying planning permission.

3. Background

- 3.1 Part 3 of the 2011 Act sets the framework for development control following the transfer of most planning functions to councils in April 2015. Section 79 of the 2011 Act provides that any grant of planning permission by a council itself, or by a council jointly with another person shall be subject to Regulations made under that section.
- 3.2 Councils will be required to notify the Department of its own applications, or those in which it has a financial or other interest, in circumstances where the council's proposed decision is significantly contrary to the development plan for its district; the council intends to grant planning permission contrary to the advice from a statutory consultee; or- the proposal may have an adverse impact on a World Heritage Site. The Department will then have up to 28 days within which to decide whether or not to call in the application for its own determination.

4. Consultation

- 4.1 The draft Regulations were subjected to a 12 week public consultation in the Department's "Planning Reform & Transfer to Local Government Proposals for Subordinate Legislation Phase 1" between 28 May 2014 and 20 August 2014.

5. Equality Impact

5.1 In accordance with its duty under Section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals and has concluded that they do not have implications for equality of opportunity. The measures will not affect any group disproportionately.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment carried out in respect of the changes to planning applications indicated that the proposals would not impose any significant costs to business or the voluntary sector.

7. Financial Implications

7.1 There will be costs to councils in the processing of their own planning applications, however, this forms part of their functions under the new two-tier planning system and meets the requirements of the 2011 Act to transfer planning powers to councils. The Department will provide councils with adequate funding to cover the lifetime costs of processing planning applications.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the proposed Order is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 Equivalent Regulations have been made in England and Wales and have been in operation since 1992. Scottish Ministers revised and streamlined their Regulations in 2009.

11. Additional Information

11.1 Not applicable

REGULATORY IMPACT ASSESSMENT
Land of Interested Councils

1. Title of Proposal

The Planning General Regulations (Northern Ireland) 2015

2. Purpose and intended effect of measure

i) The objective:

The main objective of the Statutory Rule is to provide that in relation to planning applications involving council owned land or applications in which they have a financial or other interest, a council is required to notify the Department of the proposed decision prior to issue in circumstances set out in a Direction issued by the Department.

The proposed Regulations will only affect Northern Ireland.

ii) The background:

The new draft Regulations are required as a direct consequence of the introduction of the two tiered planning system introduced in the Planning Act (Northern Ireland) 2011 which comes into operation in April 2015 with the transfer of most planning functions to councils.

iii) Risk Assessment and Rationale for Government Intervention:

The draft Regulations provide the necessary safeguards to protect the integrity of the planning process by ensuring that councils own applications can be scrutinized, where appropriate, by the Department where the proposed decision is contrary to the development plan for the area or the proposal is of wider than purely local significance.

3. Options Appraisal

Option 1: Do Nothing

Doing nothing is not considered an appropriate option as there needs to be some level of control exercised centrally over councils own applications.

Option 2 – Introduce new Regulations

As the enabling provision (section 77) in the Planning Act (Northern Ireland) 2011 mirrors that (section 29) in the Town and Country Planning Act 1990 in England and Wales it is considered appropriate to introduce Regulations to apply to Northern Ireland similar to those which apply in England and Wales.

4. Costs and Benefits

Unlikely to be any compliance costs. As the new Regulations apply only to councils own applications they will ensure transparency and safeguard the integrity of the planning process.

Option 1: Do Nothing

There are no additional economic benefits or costs. Doing nothing is not considered an appropriate option as there needs to be some level of control exercised centrally over councils own applications.

Option 2: Introduce new Regulations

Controls over councils own applications will provide transparency and safeguard the integrity of the planning process by allowing the Department the opportunity of calling in certain applications for its own determination.

5. Sectors and Groups Affected

The main sectors and groups affected are the district council and those individuals or groups who apply for planning permission for development jointly with a district council.

6. Enforcement and Sanctions

The Department's enforcement regime will continue to operate in the same way as it does with other developments. 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 Regulations will only apply to small firms in circumstances where they propose development jointly with a district council.

Human Rights Assessment

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

Rural Impact Assessment

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

8. Monitoring and Review

The introduction of the new two tiered planning regime will require to be monitored to determine whether the aims of introducing the new Regulations are met. The overarching aim has been to safeguard the integrity of the planning process by ensuring that councils own applications, where appropriate can be scrutinized by the Department. In this context the new Regulations will be the subject of future review, when the new Regulations have had an opportunity to bed down following transfer of planning powers to district councils in 2015.

9. Consultation

The legislative amendments are the subject of a current consultation exercise and further details are available on the Department's website.

10. Summary and Recommendations

Option 2 is the recommended option as it will provide an opportunity for the Department to hold district councils to account when dealing with their own planning applications for development of land in which they have a financial or other interest.

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: 9th February 2015
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