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STATUTORY INSTRUMENTS

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**1991 No. 1220**

**The Planning(Northern Ireland) Order 1991**

**PART IV**

**PLANNING CONTROL**

*Determination of planning applications*

**Determination of planning applications**

**25.**—(1) Subject to this Part, where an application is made to the Department for planning permission, the Department, in dealing with the application, shall have regard to the development plan, so far as material to the application, and to any other material considerations, and—

- (a) subject to Articles 34 and 35, may grant planning permission, either unconditionally or subject to such conditions as it thinks fit; or
- (b) may refuse planning permission.

(2) In determining any application for planning permission for development of any class to which Article 21(1) applies, the Department shall take into account any representations relating to that application which are received by it before the expiration of the period of 14 days from the date on which notice of the application is first published in a newspaper.

(3) Where an application for planning permission is accompanied by such a certificate as is mentioned in Article 22(1)(c) or (d), the Department—

- (a) in determining the application, shall take into account any representations relating thereto which are made to it by any person who satisfies it that, in relation to any of the designated land, he is such a person as is described in Article 22(1)(c); and
- (b) shall give notice of its decision on the application to every person who made representations which it was required to take into account under sub-paragraph (a).

**Duty to draw attention to certain provisions for benefit of disabled**

**26.**—(1) When granting planning permission for any development which will result in the provision—

- (a) of a building or premises to which section 4 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 applies (buildings or premises to which the public are to be admitted whether on payment or otherwise);
- (b) of a building intended for the purposes of an educational institution;
- (c) of any of the following, being in each case, premises in which persons are employed to work,—
  - (i) office premises and shop premises to which the Office and Shop Premises Act (Northern Ireland) 1966 applies;
  - (ii) premises which are deemed to be such premises for the purposes of that Act; or

(iii) factories as defined by section 175 of the Factories Act (Northern Ireland) 1965, the Department shall draw the attention of the person to whom the permission is granted—

(i) to the relevant provisions of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978; and

(ii) to the Code of Practice for Access for the Disabled to Buildings.

(2) In paragraph (1)—

“the Code of Practice for Access for the Disabled to Buildings” has the same meaning as in section 4(1A) of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978;

“educational institution” means any of the following—

(a) a university;

(b) a school within the meaning of the Education and Libraries (Northern Ireland) Order 1986;

(c) a college of education or other establishment for the training of teachers maintained in pursuance of Article 66 of that Order or in respect of which grants are paid under that Article; or

(d) any other institution providing further education under Article 27 of that Order; and

“the relevant provisions of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978” means—

(a) for the purposes of sub-paragraph (a), sections 4 and 7;

(b) for the purposes of sub-paragraph (b), sections 7 and 8(1) and (2); and

(c) for the purposes of sub-paragraph (c), sections 7 and 8(1) and (3).

### **Conditional grant of planning permission**

**27.**—(1) Without prejudice to the generality of Article 25(1), conditions may be imposed on the grant of planning permission—

(a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the Department to be expedient for the purposes of or in connection with the development authorised by the permission;

(b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.

(2) Any planning permission granted subject to such a condition as is mentioned in paragraph (1) (b) is in this Order referred to as “planning permission granted for a limited period”.

### **Permission to develop land without compliance with conditions previously attached**

**28.**—(1) This Article applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) A development order may make special provision with respect to—

(a) the form and content of such applications; and

(b) the procedure to be followed in connection with such applications.

(3) On such an application the Department shall consider only the question of the conditions subject to which planning permission should be granted, and—

- (a) if it decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the Department shall grant planning permission accordingly; and
- (b) if it decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the Department shall refuse the application.

(4) This Article does not apply where the application is made after the previous planning permission has become time-expired, that is to say, the previous permission having been granted subject to a condition as to the time within which the development to which it related was to be begun, that time has expired without the development having been begun.

### **Permission to retain buildings, etc.**

**29.**—(1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether—

- (a) the buildings or works were constructed or carried out or the use instituted without planning permission or in accordance with planning permission granted for a limited period; or
- (b) the application is for permission to retain the buildings or works or to continue the use of land without complying with some condition subject to which a previous planning permission was granted.

(2) Any power to grant planning permission to develop land under this Order shall include power to grant planning permission for the retention on land of buildings or works constructed or carried out, or for the continuance of a use of land instituted, as mentioned in paragraph (1); and references in this Order to planning permission to develop land or carry out any development of land, and to applications for such permission, shall be construed accordingly.

(3) Any planning permission granted under paragraph (2) may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or (in the case of buildings or works constructed or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.

### **Effect of planning permission**

**30.**—(1) Without prejudice to Articles 34 to 38, any grant of planning permission to develop land shall (except insofar as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being having an estate therein.

(2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified the permission shall be construed as including permission to use the building for the purpose for which it is designed.

### **Special procedure for major planning applications**

**31.**—(1) Where, in relation to an application for planning permission, or an application for any approval required under a development order, the Department considers that the development for which the permission or approval is sought would, if permitted—

- (a) involve a substantial departure from the development plan for the area to which it relates; or
- (b) be of significance to the whole or a substantial part of Northern Ireland; or

- (c) affect the whole of a neighbourhood; or
- (d) consist of or include the construction, formation, laying out or alteration of a means of access to a trunk road or of any other development of land within 67 metres of the middle of such a road, or of the nearest part of a special road;

the Department may within two months from the date of the application serve on the applicant a notice in such form as may be specified by a development order applying this Article to the application.

(2) For the purpose of considering representations made in respect of an application to which this Article applies, the Department may cause a public local inquiry to be held by the planning appeals commission.

(3) Where a public local inquiry is not held under paragraph (2), the Department shall, before determining the application, serve a notice on the applicant indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service thereof) the applicant so requests in writing, the Department shall afford to him an opportunity of appearing before and being heard by the planning appeals commission.

(4) In determining an application to which this Article applies, the Department shall, where any inquiry or hearing is held, take into account the report of the planning appeals commission.

(5) The decision of the Department on an application to which this Article applies shall be final.

(6) In this Article “road” includes a proposed road and “special road”, “trunk road” and “proposed road” have the same meaning as in the Roads (Northern Ireland) Order 1980.