
STATUTORY INSTRUMENTS

2006 No. 1252

The Planning Reform (Northern Ireland) Order 2006

PART II

PLANNING REFORM

Power to decline to determine applications

9.—(1) For Article 25A of the principal Order (power of Department to decline to determine applications) substitute—

“Power to decline to determine subsequent application

25A.—(1) The Department may decline to determine a relevant application if—

- (a) any of the conditions in paragraphs (2) to (4) is satisfied; and
- (b) the Department thinks there has been no significant change in the relevant considerations since the relevant event.

(2) The condition is that in the period of 2 years ending with the date on which the application mentioned in paragraph (1) is received the Department has refused a similar application under Article 31.

(3) The condition is that in that period the planning appeals commission has dismissed an appeal—

- (a) against the refusal of a similar application; or
- (b) under Article 33 in respect of a similar application.

(4) The condition is that—

- (a) in that period the Department has refused more than one similar application; and
- (b) there has been no appeal to the planning appeals commission against any such refusal.

(5) A relevant application is an application for planning permission for the development of any land.

(6) The relevant considerations are—

- (a) the development plan so far as material to the application;
- (b) any other material considerations.

(7) The relevant event is—

- (a) for the purposes of paragraphs (2) and (4) the refusal of the similar application;
- (b) for the purposes of paragraph (3) the dismissal of the appeal.

(8) An application for planning permission is similar to another application if (and only if) the Department thinks that the development and the land to which the applications relate are the same or substantially the same.

Power to decline to determine overlapping application

25AA.—(1) The Department may decline to determine an application for planning permission for the development of any land which is made at a time when any of the conditions in paragraphs (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the Department and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by—

(a) the Department in pursuance of Article 31; or

(b) the planning appeals commission on an appeal under Article 32 or 33,

and the Department or, as the case may be, the planning appeals commission, has not issued its decision.

(4) The condition is that a similar application—

(a) has been granted by the Department;

(b) has been refused by the Department; or

(c) has not been determined by the Department within the determination period,

and the time within which an appeal could be made to the planning appeals commission under Article 32 or 33 has not expired.

(5) An application for planning permission is similar to another application if (and only if) the Department thinks that the development and the land to which the applications relate are the same or substantially the same.

(6) The determination period is—

(a) the period specified by the development order for the determination of the application; or

(b) such longer period as the applicant and the Department have agreed for the determination of the application.”.

(2) In Article 33(c) of the principal Order (appeal in default of planning decision), after “25A” insert “or 25AA”.

(3) After paragraph 4 of Schedule 1 to the principal Order (determination of applications for listed building consent) insert—

“Power to decline to determine application

Power to decline to determine subsequent application

4A.—(1) The Department may decline to determine an application for a relevant consent if—

(a) one or more of the conditions in sub-paragraphs (2) to (4) is satisfied; and

(b) the Department thinks there has been no significant change in any material considerations since the relevant event.

(2) The condition is that in the period of 2 years ending with the date on which the application mentioned in sub-paragraph (1) is received the Department has refused a similar application made under paragraph 1.

(3) The condition is that in that period the planning appeals commission has dismissed an appeal—

(a) against the refusal of a similar application; or

- (b) under paragraph 8 in respect of a similar application.
- (4) The condition is that—
 - (a) in that period the Department has refused more than one similar application; and
 - (b) there has been no appeal to the planning appeals commission against any such refusal.
- (5) Relevant consent is—
 - (a) listed building consent; or
 - (b) consent under Article 51 (conservation area consent).
- (6) The relevant event is—
 - (a) for the purposes of sub-paragraphs (2) and (4) the refusal of the similar application;
 - (b) for the purposes of sub-paragraph (3) the dismissal of the appeal.
- (7) An application for relevant consent is similar to another application if (and only if) the Department thinks that the building and works to which the applications relate are the same or substantially the same.
- (8) For the purposes of an application for consent under Article 51 (conservation area consent) a reference to a provision of this Order is a reference to that provision as excepted or modified by regulations under Article 51(5).

Power to decline to determine overlapping application

4B.—(1) The Department may decline to determine an application for a relevant consent which is made at a time when any of the conditions in sub-paragraphs (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the Department and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by the planning appeals commission on an appeal under paragraph 7 or 8 and the commission has not issued its decision.

(4) The condition is that a similar application—

- (a) has been granted by the Department;
- (b) has been refused by the Department; or
- (c) has not been determined by the Department within the determination period,

and the time within which an appeal could be made to the planning appeals commission under paragraph 7 or 8 has not expired.

(5) Relevant consent is—

- (a) listed building consent; or
- (b) consent under Article 51 (conservation area consent).

(6) An application for relevant consent is similar to another application if (and only if) the Department thinks that the building and works to which the applications relate are the same or substantially the same.

(7) The determination period is—

- (a) the period prescribed for the determination of the application; or
- (b) such longer period as the applicant and the Department have agreed for the determination of the application.

(8) For the purposes of an application for consent under Article 51 (conservation area consent) a reference to a provision of this Order is a reference to that provision as excepted or modified by regulations under Article 51(5).”.

(4) In paragraph 8 of Schedule 1 to the principal Order (appeal in default of planning decision) after “decision on the application” insert “or gives notice to the applicant that it has exercised its power under paragraph 4A or 4B to decline to determine the application”.

(5) This Article has effect only in relation to applications made under the principal Order which are received by the Department after the coming into operation of this Article.