



## 2011 CHAPTER 25

### PART 3

#### PLANNING CONTROL

##### *Development management*

##### **Hierarchy of developments**

**25.—**(1) For the purposes of this Act, a development belongs to one of the following categories—

- (a) the first, to be known as “major developments”; and
- (b) the second, to be known as “local developments”.

(2) The Department must by regulations describe classes of development and assign each class to one of the categories mentioned in paragraphs (a) and (b) of subsection (1).

(3) But the Department may, as respects a particular local development, direct that the development is to be dealt with as if (instead of being a local development) it were a major development.

##### **Department’s jurisdiction in relation to developments of regional significance**

**26.—**(1) A person who proposes to apply for permission for any major development (except a development to which section 213 applies) which is prescribed in regulations made for the purposes of this subsection (“the prospective applicant”) must, before complying with section 27, enter into consultations with the Department.

(2) The Department may make regulations prescribing the procedure to be followed in relation to consultations under this section.

(3) Without prejudice to any regulations made under subsection (2), the prospective applicant must, for the purpose of consultations under that subsection, supply to the Department sufficient information in relation to the proposed development to enable the Department to assess the proposed development.

(4) Where, following consultations under this section, the Department is of the opinion that the proposed development would, if carried out—

- (a) be of significance to the whole or a substantial part of Northern Ireland or have significant effects outside Northern Ireland, or
- (b) involve a substantial departure from the local development plan for the area to which it relates,

it must serve a notice in writing on the prospective applicant stating that the development is development to which this section applies.

(5) An application for planning permission for development to which this section applies must be made to the Department.

(6) Where, following consultations under this section, the Department is of the opinion that the proposed development would not, if carried out—

- (a) be of significance to the whole or a substantial part of Northern Ireland or have significant effects outside Northern Ireland, or
- (b) involve a substantial departure from the local development plan for the area to which it relates,

it must serve a notice in writing on the prospective applicant stating—

- (i) that it is of that opinion; and
- (ii) that the prospective applicant's application for planning permission, if it is proceeded with, must be made to the appropriate council.

(7) No application for planning permission in respect of a development specified in regulations made for the purposes of subsection (1) may be made to a council unless or until a notice is served under subsection (6) in relation to the development.

(8) The Department must serve a copy of a notice under subsection (4) or (6), as the case may be, on the appropriate council.

(9) For the purpose of considering representations made in respect of an application for planning permission which is an application to which section 235 (national security) applies, the Department must, subject to any rules made under subsection (2) or (5) of that section, cause a public local inquiry to be held by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(10) For the purpose of considering representations made in respect of an application for planning permission made to it, other than an application mentioned in subsection (9), the Department may cause a public local inquiry to be held by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(11) Where a public local inquiry is not held under subsection (10), the Department must, before determining the application, serve a notice in writing on the applicant and the appropriate council 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 of the notice), the applicant or the council so requests in writing, the Department shall afford to each of them an opportunity of appearing before and being heard by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(12) In determining an application for planning permission made to it, the Department must, where any inquiry or hearing is held, take into account any report of the planning appeals commission or a person appointed by the Department for the purposes of the inquiry or hearing, as the case may be.

(13) The decision of the Department on an application for planning permission made to it shall be final.

### **Pre-application community consultation**

**27.—**(1) Before submitting an application for planning permission for a major development (except a development to which section 213 applies), the prospective applicant must comply with the following provisions of this section.

(2) The prospective applicant must give notice (to be known as a “proposal of application notice”) to the appropriate council that an application for planning permission for the development is to be submitted.

(3) A period of at least 12 weeks must elapse between giving the notice and submitting any such application.

(4) A proposal of application notice must be in such form, and have such content, as may be prescribed but must in any event contain—

- (a) a description in general terms of the development to be carried out;
- (b) if the site at which the development is to be carried out has a postal address, that address;
- (c) a plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site, and

- (d) details as to how the prospective applicant may be contacted and corresponded with.
- (5) Regulations may—
  - (a) require that the proposal of application notice be given to persons specified in the regulations,
  - (b) prescribe—
    - (i) the persons who are to be consulted as respects a proposed application, and
    - (ii) the form that consultation is to take.
- (6) The council may, provided that it does so within the period of 21 days after receiving the proposal of application notice, notify the prospective applicant that it requires (either or both)—
  - (a) that the proposal of application notice be given to persons additional to those specified under subsection (5) (specifying in the notification who those persons are);
  - (b) that consultation additional to any required by virtue of subsection (5) (b) be undertaken as regards the proposed development (specifying in the notification what form that consultation is to take).
- (7) In considering whether to give notification under subsection (6) the council is to have regard to the nature, extent and location of the proposed development and to the likely effects, at and in the vicinity of that location, of its being carried out.
- (8) In the case of an application for planning permission to be made to the Department, this section has effect as if any reference to a council were a reference to the Department.

### **Pre-application community consultation report**

**28.—**(1) A person who, before submitting an application for planning permission for a development, is required to comply with section 27 and who proceeds to submit that application is to prepare a report (a “pre-application community consultation report”) as to what has been done to effect such compliance.

(2) A pre-application community consultation report is to be in such form as may be prescribed.

### **Call in of applications, etc., to Department**

**29.—**(1) The Department may give directions requiring applications for planning permission made to a council, or applications for the approval of a council of any matter required under a development order, to be referred to it instead of being dealt with by councils.

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*Status: This is the original version (as it was originally enacted).*

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(2) A direction under subsection (1)—

- (a) may be given either to a particular council or to councils generally; and
- (b) may relate either to a particular application or to applications of a class specified in the direction.

(3) Where the Secretary of State or, as the case may be, the Department of Justice has certified that an application for planning permission or an application for any approval under this Act or a development order is an application to which section 235 (national security) applies, the Department of the Environment must give a direction to the council to which the application was made requiring the application to be referred to the Department of the Environment instead of being dealt with by the council.

(4) Any application in respect of which a direction under this section has effect shall be referred to the Department accordingly.

(5) For the purpose of considering representations made in respect of an application to which section 235 applies which has been referred to it under this section, the Department must, subject to any rules made under subsection (2) or (5) of that section, cause a public local inquiry to be held by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(6) For the purpose of considering representations made in respect of an application referred to it under this section, other than an application mentioned in subsection (5), the Department may cause a public local inquiry to be held by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(7) Where a public local inquiry is not held under subsection (6), the Department must, before determining the application, serve a notice in writing on the applicant and the appropriate council 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 of the notice), the applicant or the council so requests in writing, the Department shall afford to each of them an opportunity of appearing before and being heard by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(8) In determining an application for planning permission referred to it, the Department must, where any inquiry or hearing is held, take into account any report of the planning appeals commission or a person appointed by the Department for the purposes of the inquiry or hearing, as the case may be.

(9) The decision of the Department on an application for planning permission referred to it shall be final.

### **Pre-determination hearings**

**30.—**(1) Regulations or a development order may provide that, before determining an application for planning permission for a development of a class prescribed in the regulations or specified in the order, a council is to give the applicant and any person so prescribed or specified an opportunity of appearing before and being heard by a committee of the council.

(2) The procedures in accordance with which any such hearing is arranged and conducted (including, without prejudice to the generality of this subsection, procedures for ensuring relevance and avoiding repetition) and any other procedures consequent upon the hearing are to be such as the council considers appropriate.

(3) Any right of attendance at the hearing (other than for the purpose of appearing before and being heard by the committee) is to be such as the council considers appropriate.

(4) In relation to an application other than is provided for in regulations or a development order under subsection (1), a council may elect to give the applicant and any other person an opportunity such as is mentioned in that subsection; and if the council does so elect, subsections (2) and (3) apply accordingly.

### **Local developments: schemes of delegation**

**31.—**(1) A council must—

(a) as soon as practicable after the coming into operation of this section, and thereafter—

(i) whenever required to do so by the Department; or

(ii) subject to sub-paragraph (i), at such intervals as may be provided for in regulations made under this section,

prepare a scheme (to be known as a “scheme of delegation”) by which any application for planning permission for a development within the category of local developments or any application for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within that category is to be determined by a person appointed by the council for the purposes of this section instead of by it, and

(b) keep under review the scheme so prepared.

(2) The determination of any person so appointed is to be treated as that of the council.

(3) Without prejudice to subsection (1)(a)(ii), regulations under this section may make provision as to—

- (a) the form and content of,
- (b) the procedures for preparing and adopting, and
- (c) the requirement to publish,

a scheme of delegation.

(4) Where an application for planning permission falls to be determined by a person so appointed, sections 41(3), 42, 45, 46, 48, 52(1) and (2), 54, 58 and 60 apply, with any necessary modifications, as they apply to an application which falls to be determined by the council.

(5) The council may, if it thinks fit, decide to determine an application itself which would otherwise fall to be determined by a person so appointed.

(6) Any such decision must include a statement of the reasons for which it has been taken; and a copy of the decision is to be served on the applicant.