
Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Planning Act (Northern Ireland) 2011, Cross Heading: Applications for approval of conditions and appeals in cases where the conditions approved are not those proposed. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 2

REVIEW OF OLD MINERAL PLANNING PERMISSION

Modifications etc. (not altering text)

- C1** Schs. 1-3: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

Applications for approval of conditions and appeals in cases where the conditions approved are not those proposed

9.—(1) Any person who is the owner of any land, or who is entitled to an interest in a mineral, may, if that land or mineral is or forms part of a dormant site or an active Phase I or II site, apply to the council to determine the conditions to which the relevant planning permissions relating to that site are to be subject.

(2) An application under this paragraph must be in writing and must—

- (a) identify the mineral site to which the application relates;
- (b) specify the land or minerals comprised in the site of which the applicant is the owner or, as the case may be, in which the applicant is entitled to an interest;
- (c) identify any relevant planning permission relating to the site;
- (d) identify, and give a postal address for, each other person that the applicant knows or, after reasonable inquiry, has cause to believe to be an owner of any land, or entitled to any interest in any mineral, comprised in the site;
- (e) set out the conditions to which the applicant proposes the permissions referred to in paragraph (c) should be subject; and
- (f) be accompanied by the appropriate certificate (within the meaning of sub-paragraph (3)).

(3) For the purposes of sub-paragraph (2), the appropriate certificate is such a certificate—

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(a) as would be required, under section 42 (notification of applications for planning provisions to certain persons) to accompany the application if it were an application for planning permission for minerals development, but

(b) with such modifications as are required for the purposes of this paragraph, and section 42(6) (offences) shall also have effect in relation to any certificate purporting to be the appropriate certificate.

(4) Section 41 shall have effect, with any necessary modifications, in relation to an application under this paragraph as it has effect in relation to an application for planning permission.

(5) Where the council receives an application under this paragraph in relation to a dormant site or an active Phase I or II site it must determine the conditions to which each relevant planning permission relating to the site is to be subject; and any such permission shall, from the date when the conditions to which it is to be subject are finally determined, have effect subject to the conditions which are determined under this Schedule as being the conditions to which it is to be subject.

(6) The conditions imposed by virtue of a determination under sub-paragraph (5)—

(a) may include any conditions which may be imposed on a grant of planning permission for minerals development;

(b) may be in addition to, or in substitution for, any existing conditions to which the permission in question is subject.

(7) In determining that a relevant planning permission is to be subject to any condition relating to development for which planning permission is granted by a development order, the council must have regard to any guidance issued by the Department.

(8) Subject to sub-paragraph (10), where, within the period of 6 months from the council having received an application under this paragraph, or within such extended period as may at any time be agreed upon in writing between the applicant and the council, the council has not—

(a) given notice to the applicant of its decision upon the application; or

(b) given notice to the applicant that the application has been referred to the Department in accordance with directions given under paragraph 13,

the council shall be treated as having at the end of that period or, as the case may be, that extended period, determined that the conditions to which any relevant planning permission to which the application relates is to be subject are those specified in the application as being proposed in relation to that permission; and any such permission shall, from that time, have effect subject to those conditions.

(9) Where the council, having received an application under this paragraph, is of the opinion that it is unable to determine the application unless further details

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are supplied to it, it must within the period of one month from having received the application give notice to the applicant—

- (a) stating that it is of such opinion; and
- (b) specifying the further details which it requires,

and where the council so serves such a notice the period of 6 months referred to in sub-paragraph (8) shall run not from the council having received the application but from the time when the council has received all the further details specified in the notice.

(10) Without prejudice to the generality of sub-paragraph (9), the further details which may be specified in a notice under that sub-paragraph include any—

- (a) information, plans or drawings; or
- (b) evidence verifying any particulars of details supplied to the council in respect of the application in question,

which it is reasonable for the council to request for the purpose of enabling it to determine the application.

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