

PLANNING REFORM (NORTHERN IRELAND) ORDER 2006

S.I. 2006 No. 1252 (N.I. 7)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

Part II – Planning Reform

Article 3 – Statement of community involvement

11. This Article introduces a requirement for the Department to produce a statement of its policy for involving the community in development proposals, including both development control and development plan making functions.

Article 4 – Status of development plans

12. [Article 4](#) confirms in law the importance of a development plan in the determination of planning applications. Where regard is to be had to the development plan, the determination must be in accordance with the development plan unless material considerations indicate otherwise.

Article 5 – Independent examination of development plans

13. [Article 5](#) replaces the powers whereby the Department may cause a public local inquiry to be held by the Planning Appeals Commission for considering objections to development plans. Instead it enables an independent examination to be carried out by the Planning Appeals Commission for the purpose of considering objections to a development plan or to the alteration, repeal or replacement of a development plan. A person, who makes objections, will still be given the opportunity to appear before and be heard by the Planning Appeals Commission providing he has made a request to do so.

Article 6 – Sustainable development

14. This Article imposes a statutory duty on the Department and the Planning Appeals Commission. In exercising functions in relation to planning the development of land and the making, alteration or repeal of development plans, the Department and the Planning Appeals Commission must do so with the objective of contributing to the achievement of sustainable development. The Department and the Planning Appeals Commission are also required to have regard to policies and guidance issued by the Department of the Environment and the Department for Regional Development.

Article 7 – Development to include certain internal operations

15. [Article 7](#) provides the Department with the power to bring increases of internal floor space within the definition of development. The threshold, above which planning consent would be required, will be defined within subordinate legislation.

Article 8 – Statements of principles of design and accessibility

16. This Article requires certain applications for planning permission and consent to be accompanied by a statement about the design principles and concepts that have been applied to the development and/or a statement about how issues relating to access to the development have been dealt with. Powers are also provided to enable the applications to which this is intended to apply to be prescribed in subordinate legislation.

Article 9 – Power to decline to determine applications

17. **Article 9** provides the Department with a power to decline to determine any planning application or consent deemed to be the same or substantially the same as another application for the same site within the preceding two years. The provisions apply where the Department has refused a similar application under Article 31 of the Planning (Northern Ireland) Order 1991 or has refused more than one similar application and there has been no appeal to the Planning Appeals Commission; or where the Planning Appeals Commission has dismissed an appeal for a similar proposal and there has been no material change in circumstances (Repeat Applications). In addition, the Department may decline to determine an application if the Department thinks that it is similar or substantially similar to another application which has not been finally determined or is still under consideration by the Planning Appeals Commission (Twin Tracked Applications).

Article 10 – Duration of planning permission and listed building consent

18. This Article introduces new powers which will remove the ability to renew a planning permission, listed building or conservation area consent by applying to vary the time commencement condition. The powers also remove the ability to vary the time within which reserved matters must be submitted with regard to outline permissions.

Article 11 – Removal of discretion to extend time for bringing appeal

19. **Article 11** removes the Planning Appeal Commission's discretion to extend the time for submitting an appeal.

Article 12 – Conservation areas

20. **Article 12** provides for wider consultation on the proposed designation of conservation areas to include such other persons or bodies as may be prescribed. This Article also enables conservation area controls, including demolition control and the preservation of trees, to be put in place on a temporary basis before such consultation takes place.

Article 13 – Temporary stop notice

21. The Department may serve temporary, stand alone, stop notices to halt a breach of planning control for a period of up to 28 days as soon as the breach is identified. It enables the Department to prevent unauthorised development at an early stage without first having had to issue an enforcement notice. In addition, it allows the Department up to 28 days to decide whether further enforcement action is appropriate and what that action should be, without the breach intensifying by being allowed to continue. The provisions also impose certain limitations on activities and specify that contravention of such a notice would become a criminal offence, punishable on summary conviction by a fine of up to £30,000 or on indictment by an unlimited fine, and outline arrangements for compensation.

Article 14 – Increase in fines for unlawful advertisements

22. This Article increases the maximum level of fines for the offence of displaying an advertisement in contravention of advertisement regulations from level 3 on the

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standard scale of fines (£1,000) to level 4 (£2,500) with daily fines raised from up to £100 to a maximum of £250.

Article 15 – Procedure of Planning Appeals Commission

23. **Article 15** introduces changes to allow the Chief Commissioner of the Planning Appeals Commission to delegate decision making in certain appeal cases to a single Commissioner. The Chief Commissioner will have the discretion to decide which cases are to be so delegated. Detailed changes may be prescribed in subordinate legislation.

Article 16 – Fees and charges

24. **Article 16** widens provisions for the payment of both charges and fees relating to planning applications. The provisions enable the Department to charge for the recovery of the costs of performing its functions.