

# Development Management

## Practice Note

PRACTICE NOTE

01

### Hierarchy of developments

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Version 1



Department for

**Infrastructure**

An Roinn

**Bonneagair**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

## Preamble

This Development Management Practice Note is designed to guide planning officers and others engaged in the planning system through the hierarchy of developments and deals primarily with procedures as well as good practice. It forms part of a series of practice notes stemming from **The Planning Act (Northern Ireland) 2011 [the 2011 Act]** and any related subordinate legislation. The emphasis is very much on advice but where explicit legislative requirements must be followed these will be made clear.

Where appropriate this practice note will highlight:

- Relevant legislation;
- Procedural guidance;
- Definitions;
- Best practice examples / relevant case law

This guidance is not intended to replace the need for judgement by planning officers and those making planning applications. Nor is it intended to be a source of definitive legal advice. Reference should be made to the actual legislation referred to in this document and if any discrepancy or conflict exists between the Practice Note<sup>1</sup> and legislation the provisions of the legislation will prevail.

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<sup>1</sup> Please ensure you are considering the most up to date version of Practice Note 1 available on the Planning Portal at [www.planningni.gov.uk](http://www.planningni.gov.uk) and the Department for Infrastructure website at [www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk) and the most up to date legislation on the legislation website at [www.legislation.gov.uk](http://www.legislation.gov.uk), which is also available via the Planning Portal and the Department's website.

## 1.0 INTRODUCTION

- 1.1 The 2011 Act introduced a number of enabling powers for the transfer of responsibility for the majority of planning functions from central government to local councils in April 2015. In conjunction with a range of subordinate legislation the 2011 Act established a two tier planning system.
- 1.2 Under this two tier planning system a council, through its elected representatives, is responsible and accountable for making decisions on the vast majority of planning applications (including applications in relation to consents e.g. listed buildings, advertisements), enforcement issues as well as the preparation of a Local Development Plan (LDP) for its given administrative area. The Department<sup>2</sup> will determine only a very limited number of applications, namely those for Regionally Significant Development (RSD) and those applications which are subject to call in<sup>3</sup> from councils.

## 2.0 LEGISLATIVE CONTEXT

- 2.1 To support this two tier planning system, the 2011 Act introduced a **hierarchy of developments** into primary planning legislation. This hierarchy lies at the heart of the reformed development management system.
- 2.2 **Section 25** of the 2011 Act provides the basis for the hierarchy of developments and states that a proposed development belongs to either the category of **major developments** or **local developments**. Regulations 2 and 3 and the Schedule of Major Development Thresholds (incorporating a Table) to the **Planning (Development Management) Regulations (Northern Ireland) 2015** (DM Regulations) as amended<sup>4</sup>, describes and assigns classes of development to the major or local developments category of the hierarchy.

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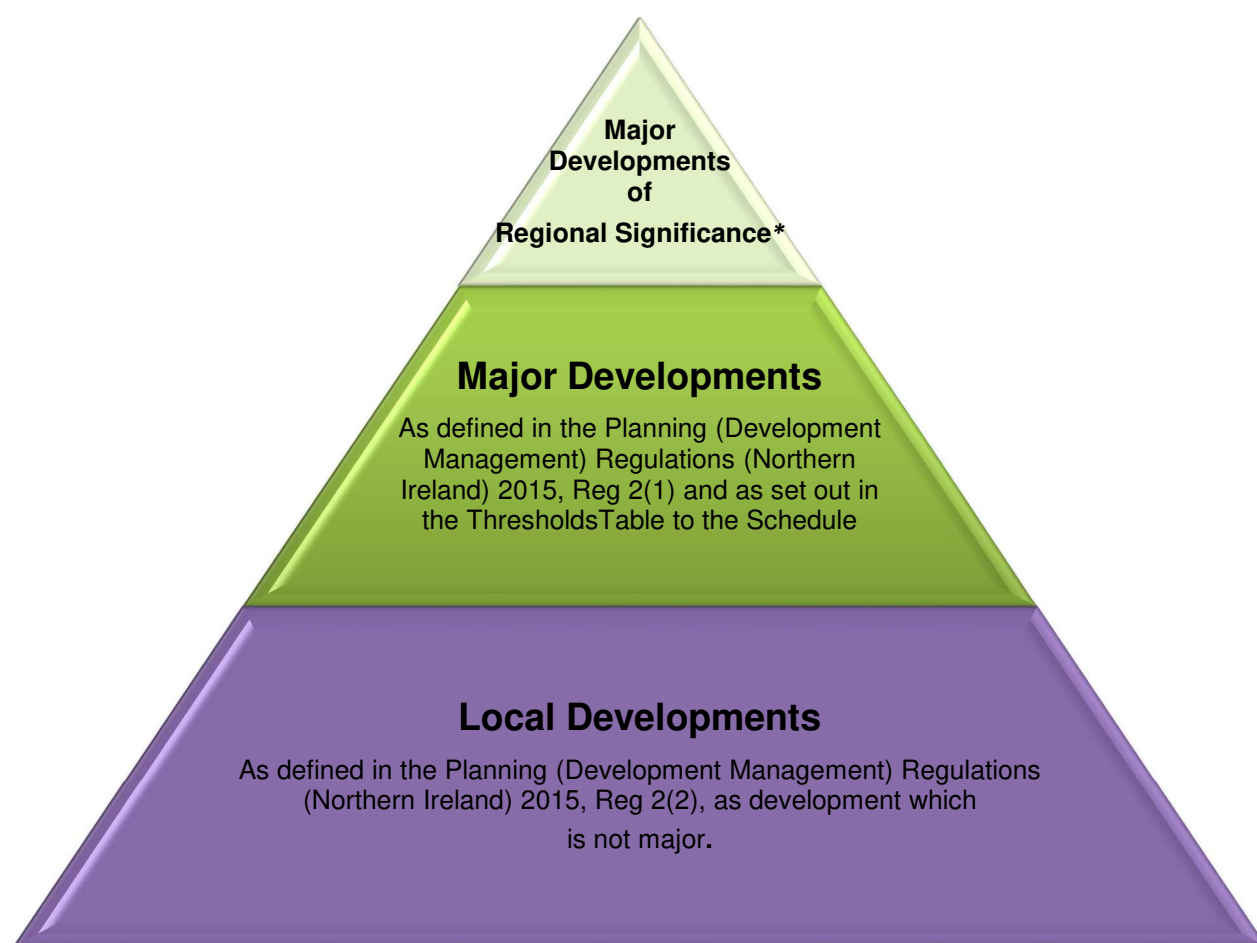
<sup>2</sup> Department means Department for Infrastructure (DfI) unless otherwise specified.

<sup>3</sup> Guidance in relation to the call in of planning applications can be found in Development Management Practice Note 13.

<sup>4</sup> The Schedule to the DM Regulations was amended by the Planning (Development Management) (Amendment) Regulations (Northern Ireland) 2015.

2.3 The Thresholds Table subdivides the major development category on the basis of thresholds or criteria to identify potentially major development of regional significance, which is, in effect, the ‘top slice’ of the major development category<sup>5</sup>. The hierarchy of developments is illustrated in Figure 1 below.

**Figure 1: Illustration of the Hierarchy of Developments**



\*As defined in section 26 of the 2011 Act and the Planning (Development Management) Regulations (Northern Ireland) 2015, Reg 3 and as set out in the Thresholds Table to the Schedule.

<sup>5</sup> See Annex 1: Schedule of Major Development Thresholds.

### **3.0 APPLICATION OF THE HIERARCHY**

- 3.1 The hierarchy of developments applies to all applications for planning permission which may be considered by councils or, as the case may be, the Department.
- 3.2 The hierarchy is intended to ensure that application procedures are proportionate and responsive to the different types of development category, with appropriate resources and decision making mechanisms aligned accordingly. Overall, applications for local and major developments will be submitted to the appropriate council to be determined and major developments accepted as applications for RSD will be submitted to and determined by the Department<sup>6</sup>.
- 3.3 The procedures for submitting and handling planning applications vary between the different categories of development<sup>7</sup>.

### **4.0 MAJOR DEVELOPMENTS**

- 4.1 Major developments are those developments which have the potential to be of significance and interest to communities and will be subject to processes such as Pre-Application Community Consultation (PACC), the submission of a Design and Access Statement (D&AS) and determination by a committee of the council. They are likely to be developments that have important economic, social and environmental implications for a council area.
- 4.2 The Thresholds Table prescribes the classes of major development for the purposes of regulations 2 and 3 of the DM Regulations<sup>8</sup>. This is development

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<sup>6</sup> Guidance in relation to section 54 applications can be found in Development Management Practice Note 24.

<sup>7</sup> Guidance in relation to the Types of Planning Applications can be found in Development Management Practice Note 4.

<sup>8</sup> See Annex 1.

as described in Column 1 of the Table where any applicable threshold or criteria in Column 2 of the Table is met or exceeded.

- 4.3 The Thresholds Table sets out 9 classes of major development each with a description and relevant threshold or criteria. References to classes of development in the DM Regulations relates to classes in the Table.
- 4.4 Under **section 27(3)** of the 2011 Act, applications for major developments will require a proposal of application notice (PAN) to be served on the appropriate council at least 12 weeks in advance of submission of the application and which requires the applicant to detail consultation with the community as required by section 27<sup>9</sup>.

## 5.0 REGIONALLY SIGNIFICANT DEVELOPMENTS

- 5.1 Major developments which are considered regionally significant have the potential to make a significant contribution to the economic and social success of Northern Ireland. They may also include developments which potentially have significant effects beyond Northern Ireland or involve a substantial departure from a LDP. Section 26 of the 2011 Act provides the Department with jurisdiction in relation to applications for RSD. Column 3 of the Thresholds Table (regulation 3 of the DM Regulations) provides thresholds or criteria prescribed for the purpose of section 26(1) of the Planning Act 2011<sup>10</sup> i.e. to identify major development for assessment as to whether it is of regional significance or not. These thresholds or criteria apply to 5 of the 9 classes of development listed in the Table.
- 5.2 A proposed major development which meets or exceeds the threshold or criteria in Column 3 to the Table is not automatically classed as regionally significant. The prospective applicant must firstly consult with the Department

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<sup>9</sup> Pre-application Community Consultation is examined further in Practice Note 10.

<sup>10</sup> Section 26(1) of the Planning Act 2011 deals with the Department's jurisdiction in relation to developments of regional significance.

to establish if the Department considers the development to be regionally significant (section 26(1)).

5.3 The applicant must provide sufficient information in relation to the proposed development to enable the Department to assess if the proposal is regionally significant. If the Department is of the opinion that the proposal would, if carried out:

- (a) be of significant 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 applicant stating that section 26 of the 2011 Act applies. In addition the Department must serve a copy of this notice on the appropriate council. Where the Department has considered that section 26 applies, the application must be made to the Department and not the council.

5.4 Where, following consultations, the Department is of the opinion that the proposed development would not, if carried out:

- (a) be of significant 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 advising of this opinion and that the application must be made to the appropriate council. In addition the Department must serve a copy of this notice on the appropriate council.

5.5 As with all planning applications for major development, applications for RSD proposals will be subject to PACC.

- 5.6 Where a planning application for major development of regional significance is made to the Department for determination, the Department can use its discretionary powers to call in related applications that have been submitted to a council with regard to other planning controls, (e.g. an application for listed building consent; an application for consent to display an advertisement), and consider and determine them.

## **6.0 CHANGE TO OR EXTENSION OF DEVELOPMENT**

### *Major Developments*

- 6.1 Regulation 2(1)(b) of the DM Regulations has the effect that any change to or extension of an existing major development is to be treated as major where the change or extension itself meets or exceeds the relevant threshold or criterion in the corresponding entry in Column 2 of the Thresholds Table.

### *Regionally Significant Developments*

- 6.2 Regulation 3(b) of the DM Regulations has the effect that any change to or extension of an existing RSD is to be treated as major in the RSD category where the change or extension itself meets or exceeds the relevant threshold or criterion in the corresponding entry in Column 3 of the Thresholds Table.

## **7.0 LOCAL DEVELOPMENTS**

- 7.1 Local developments are the remaining developments that do not meet any of the thresholds or criteria for major developments in the Threshold Table (regulation 2(2) of the DM Regulations). Applications for local developments will be determined by the appropriate council, often by an appointed officer under a council's scheme of delegation. They will comprise the majority of developments that are the subject of a planning application, including the majority of residential and minor commercial applications likely to be received by councils.



7.2 Section 25(3) of the 2011 Act provides the Department with the discretionary power to direct that any local development may be dealt with as if it were a major development.

## 8.0 PERMITTED DEVELOPMENT

8.1 Planning permission is required for most developments that takes place, although some minor works may be considered 'permitted development' and may not require specific permission in accordance with the **Planning (General Permitted Development) Order (Northern Ireland) 2015** (the GPDO).

8.2 The main purpose of the GPDO is to grant planning permission for certain classes of development under Part 3 of the 2011 Act, subject to Articles 3 to 7 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 as amended<sup>11</sup>. Permission granted by the GPDO is described in the Parts and Classes set out in the Schedule, qualified by relevant exceptions, limitations and conditions.

8.3 Proposed development that is not considered to be permitted development will require the submission of an application for planning permission, which will be subject to the hierarchy of developments.

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<sup>11</sup> The Planning (General Development Procedure) (Amendment) Order (Northern Ireland) 2016.

## Annex 1: Schedule of Major Development Thresholds

### The Planning (Development Management) Regulations (Northern Ireland) 2015 as amended

Regulations 2 and 3

#### SCHEDULE

#### Major Development Thresholds

1. In the Table below—

“airport” has the meaning assigned to it in Article 2(2) of the Airports (Northern Ireland) Order 1994<sup>(1)</sup>

“area of works” includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation;

“floor space” means floor space in a building or buildings;

2. The Table below sets out the classes of development belonging to the category of major development.

<b><i>Description of Development</i></b>	<b><i>Major Developments Threshold or Criteria</i></b>	<b><i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i></b>
<u>1. EIA development</u>	Development of a description in paragraphs 1, 3, 4, 5, 6, 11, 12, 15, 17, 18, 22, 23 and 24; mentioned in Schedule 1 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.	Development of a description in paragraphs 1, 3, 22, 23 and 24 mentioned in Schedule 1 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.
<u>2. Energy Infrastructure</u> Electricity generating stations	<p>1. The construction of an electricity generating station where its capacity is or exceeds 5 megawatts.</p> <p>2. All onshore development associated with the construction of an offshore electricity generating station.</p>	<p>1. The construction of an electricity generating station where its capacity is or exceeds 30 megawatts.</p> <p>2. All onshore development associated with the construction of an offshore electricity generating station with a capacity which is or exceeds 30 megawatts.</p>
Electrical power lines	The installation of an electrical power line where the voltage exceeds 33 kilovolts if the purpose of the line is the provision of a	The installation of an electrical power line where the voltage:

<i>Description of Development</i>	<i>Major Developments Threshold or Criteria</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</i>
	supply to more than one customer.	-is 110 kilovolts double circuit overhead line; or  -is or exceeds 275 kilovolts,  and a length of more than 15 kilometres.
Storage	1. Installations for the storage of petroleum, petrochemical, chemical products or natural gas where the storage capacity of the facility is expected to be 30,000 tonnes or more.  2. Installations for the underground geological storage of petroleum, natural gas, carbon dioxide or compressed air energy storage.	1. Installations for the storage of petroleum, petrochemical, chemical products or natural gas where the storage capacity of the facility is expected to be 200,000 tonnes or more.  2. Installations for the underground geological storage of petroleum, natural gas, carbon dioxide or compressed air energy storage.
Extraction	1. Any proposal relating to the extraction of unconventional hydrocarbons.  2. The extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 250 tonnes per day in the case of petroleum and 250,000 cubic metres per day in the case of gas.	1. Any proposal relating to the extraction of unconventional hydrocarbons.  2. The extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.
Pipelines	Pipelines with a diameter of more than 400 millimetres or more than 20 kilometres in length:  -for the transport of gas, oil or chemicals, or  -for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.	Pipelines with a diameter of more than 800 millimetres or more than 40 kilometres in length:  -for the transport of gas, oil or chemicals, or  -for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.
<u>3. Transport infrastructure.</u> Construction of new or replacement railways, airports,	The areas of work is or exceeds 1 kilometre in length or 1 hectare.	a) construction of lines for long-distance railway traffic and of airports with a basic

<b>Description of Development</b>	<b>Major Developments Threshold or Criteria</b>	<b>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</b>
harbours and ports, waterways, transit ways.		<p>runway length of 2,100 metres or more;</p> <p>b) inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes; or</p> <p>c) trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.</p>
<u>4. Waste infrastructure.</u>		
Construction of facilities for use for the purpose of waste management, disposal or treatment.		
Waste Management Facilities	<p>1. An installation for the disposal, treatment or recovery of hazardous waste with a capacity for an annual intake of or more than 25,000 tonnes.</p> <p>2. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive <a href="#">2008/98/EC</a> under heading D9(2)) of non-hazardous waste with a capacity exceeding 100 tonnes per day.</p>	<p>1. An installation for the disposal, treatment or recovery of hazardous waste with a capacity for an annual intake of or more than 100,000 tonnes.</p> <p>2. Waste disposal installations for the incineration or chemical treatment (as defined in Annex I to Directive <a href="#">2008/98/EC</a> under heading D9) of non-hazardous waste with a capacity for an annual intake exceeding 100,000 tonnes.</p>
Waste Water	Waste water treatment plants with a capacity exceeding 50,000 population equivalent as defined in Article 2 point (6) of Directive <a href="#">91/271/EEC</a> .	Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Directive <a href="#">91/271/EEC</a> (3).
<u>5. Minerals</u>		
	The area of the site is or exceeds 2 hectares.	a) development involving quarries or open-cast mining where the surface of the site exceeds

<b>Description of Development</b>	<b>Major Developments Threshold or Criteria</b>	<b>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011</b>
Extraction of minerals		25 hectares, or peat extraction where the surface of the site exceeds 150 hectares; or  b) development involving underground mining where the surface of the site exceeds 2 hectares.
<u>6. Housing.</u> Construction of buildings structures or erections for use as residential accommodation; includes private schemes.	a) development that comprises 50 units or more; or b) the area of the site is or exceeds 2 hectares.	
<u>7. Retailing, Community, Recreation and Culture.</u> (according to Parts A and D of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015(4)). Including shops, financial, professional and other services, community and cultural uses, and assembly and leisure.	a) development that comprises 1,000 square metres or more gross floor space outside town centres; or b) the area of the site is or exceeds 1 hectare.	
<u>8. Business, Industry (Light and General), Storage and Distribution.</u> (according to Part B of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015	a) development that comprises 5,000 square metres or more gross floor space; or b) the area of the site is or exceeds 1 hectare.	
<u>9. All other development.</u> Any development not falling wholly within any single class of development described in Parts 1 to 8 above.	a) development that comprises 5,000 square metres or more gross floor space; or b) the area of the site is or exceeds 1 hectare.	

Source: Schedule from The Planning (Development Management) Regulations (Northern Ireland) 2015 as amended by The Planning (Development Management) (Amendment) Regulations (Northern Ireland) 2015.



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