

Development Management

Practice Note

PRACTICE NOTE

04

Types of planning applications

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An Roinn

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Preamble

This Development Management Practice Note is designed to guide planning officers and others engaged in the planning system through the various types of planning applications that exist and their associated requirements 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 therefore highlight:

- Relevant legislation;
- Procedural guidance;
- Definitions;
- Good 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 Note¹ and legislation the provisions of the legislation will prevail.

¹ Please ensure you are considering the most up to date version of Practice Note 4 available on the Planning Portal at www.planningni.gov.uk and the Department for Infrastructure website at www.infrastructure-ni.gov.uk and the most up to date legislation on the legislation website at www.legislation.gov.uk, which is also available via the Planning Portal and the Department's website.

1.0 INTRODUCTION

- 1.1 There are several types of planning applications which may be submitted to the relevant council² or, as the case may be, the Department³ depending on the nature of the development proposals and / or the form of consents required. For example, an applicant who proposes to carry out building operations may choose to apply either for full planning permission, or for outline permission with one or more matters reserved by condition for the subsequent approval of the council (i.e. approval of reserved matters) or, as the case may be, the Department. Other planning controls include applications for advertisement, listed building, demolition in a conservation area and hazardous substances consent.
- 1.2 To understand the context for the various types of applications that exist, it is important to be aware of the hierarchy of developments that was introduced by the 2011 Act, which provides for two categories of development, major developments and local developments, within which all development proposals are located. Depending on the category of development, certain statutory requirements have been introduced for development proposals both prior to the submission of an application (pre-application stage) and at the point of submission. These are examined further below.

2.0 THE TWO TIER PLANNING SYSTEM

- 2.1 The 2011 Act introduced a two tier planning system in 2015. Under this system councils, through their elected representatives, are responsible and accountable for making decisions on the vast majority of planning applications. The Department determines only a very limited number of applications for Regionally Significant Development (RSD) and those which are subject to call in from councils.

² Council means district council unless otherwise stated.

³ Department means the Department for Infrastructure unless otherwise stated.

3.0 THE HIERARCHY OF DEVELOPMENTS

3.1 **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 amended⁴ describes and assigns classes of development to the major or local developments category of the hierarchy.

3.2 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 category⁵. 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 Department⁶.

3.3 Local developments comprise all other developments (other than permitted development⁷) that do not fall within the classes prescribed as major development. The Department can also require that a specific application that would normally be a local development should be dealt with as if it is a major development⁸.

4.0 LEGISLATIVE CONTEXT

4.1 The statutory provisions that provide for the manner in which applications for planning permission are to be submitted, processed and determined are predominantly found in the 2011 Act as well as the **Planning (General**

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

⁵ See Annex 1: Schedule of Major Development Thresholds.

⁶ Guidance in relation to Section 54 applications can be found in Development Management Practice Note 24.

⁷ The Planning (General Permitted Development) Order (Northern Ireland) 2015 (the GPDO).

⁸ See Development Management Practice Note 1 for further details in relation to the Hierarchy of Developments.

Development Procedure) Order (Northern Ireland) 2015 as amended⁹ (the GDPO).

The 2011 Act (Primary Legislation)

Section 26 – Department’s jurisdiction in relation to developments of regional significance

Section 27 – Pre-application community consultation

Section 28 – Pre-application community consultation report

Section 40 – Form and content of applications

Section 41 – Notice, etc., of applications for planning permission

Section 42 – Notification of applications to certain persons

The GDPO (Subordinate Legislation)

Article 3 – Applications for planning permission

Article 4 – Outline applications

Article 5 – Application for approval of reserved matters

Article 6 – Design and access statements

Article 7 – Application for non-material changes to planning permission

Article 12 – Applications made under planning condition

5.0 THE PRE-APPLICATION STAGE

Pre-Application Community Consultation (PACC) & Proposal of Application Notice (PAN)

- 5.1 **Section 27 of the 2011 Act** places a statutory duty upon applicants for planning permission to consult the community in advance of submitting a planning application, if the development falls within the major category as prescribed in the Thresholds Table to the Schedule to the DM Regulations. This also includes those major developments which the Department will determine because they are considered to be of regional significance. This requirement for the applicant to engage with local communities at the pre-application stage seeks to ensure that communities are better informed about development

⁹ The Planning (General Development Procedure) (Amendment) Order (Northern Ireland) 2016.

proposals that may directly affect them. It will also provide local communities with an opportunity to contribute their views and have them considered before a formal planning application is submitted.

- 5.2 Prospective applicants for major developments will be required to submit a **Proposal of Application Notice (PAN)** to the appropriate council or, as the case may be, the Department. Section 27(3) of the 2011 Act states that a period of 12 weeks must elapse between giving the Pre-Application Notice and submission of any such application¹⁰.
- 5.3 Front loading of planning applications, in particular those classed as major developments or RSDs, aims to improve the quality of planning applications in the planning system and is designed to ensure a more transparent and efficient assessment of those planning applications.

Pre-Application Discussions (PADs)

- 5.4 Whilst a pre-application discussion with a council or, as the case may be, the Department is a separate, non-statutory, activity from the statutory Pre-Application Community Consultation, it can inform the planning process and scope of the statutory consultation activity. Applicants are therefore encouraged to engage in meaningful pre-application discussions, where appropriate, with the relevant planning authority to ensure the efficient progression of their proposed planning application. By facilitating effective and meaningful pre-application discussions a council or, as the case may be, the Department is seeking to ensure that opportunities to work collaboratively with applicants exist with the aim of maximising the quality of development proposals submitted.

¹⁰ Further guidance on pre-application community consultation can be found in Development Management Practice Note 10.

6.0 THE APPLICATION STAGE

Form and content of planning applications

6.1 The format of an application for planning permission is provided for by **section 40 of the 2011 Act**. The form and content of a planning application is specified in **Article 3 of the GDPO** and should include the following:

- a) a written description of the development to which it relates;
- b) the postal address of the land to which the development relates; or if the land in question has no postal address a description of the location of the land; and
- c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.

6.2 The application must be accompanied:

- a) by a plan-
 - (i) sufficient to identify the land to which it relates;
 - (ii) And showing the situation of the land in relation to the locality and in particular in relation to neighbouring land;
- b) by such other plans and drawings as are necessary to describe the development to which it relates;
- c) where any neighbouring land is owned by the applicant, by a plan identifying that land;
- d) by one or other of the certificates required under Article 9;
- e) where the application relates to major development, a pre-application community consultation report;
- f) where required under Article 6, by an access statement or a design and access statement as appropriate;
- g) by 3 additional copies of the application, plans and drawings submitted with it, except where the council, or as the case may be, the Department indicates that a lesser number is required;

- h) where the application relates to Crown land by a statement that the application is made in respect of Crown land; and
- i) by any fee payable under the Fees Regulations.

Pre-Application Community Consultation Report

- 6.3 **Section 28 of the 2011 Act** requires an applicant for a major development, which includes an RSD, on submission of an application to submit a pre-application community consultation report to show how their required community consultation has been carried out in accordance with statutory requirements. The report should also detail how the views of the community have been considered indicating if any changes have been included to address issues raised.
- 6.4 **Section 50 of the 2011 Act** requires the council or Department to decline to determine an application if the requirements of section 27 have not been complied with. Before deciding whether an application must be declined, the Council or Department can request additional information¹¹.

Design and Access Statement

- 6.5 A core planning principle of the reformed planning system is to support good design. **Sections 40(3) and 86(2) of the 2011 Act** require that certain planning applications and all listed building consent applications must be accompanied by a Design and Access Statement (D&AS).
- 6.6 The types of planning applications that must be accompanied by a D&AS are specified in **Article 6 of the GDPO** as;
- a) Development which is major development.
 - b) Where any part of the development is in a designated area, development consisting of –
 - (i) The provision of one or more dwelling house; or

¹¹ PACC guidance is contained within Development Management Practice Note 10.

- (ii) The provision of a building or buildings where the floor space created by the development is 100 square metres or more.

6.7 The details of the D&AS, including the form and content, are also prescribed in Article 6 of the GDPO, which specifies what must be included with a D&AS¹².

7.0 TYPES OF APPLICATIONS FOR PLANNING PERMISSION

Application for outline planning permission

7.1 An outline planning application provides a means for an applicant to establish whether a proposal to build on any particular site is acceptable, in principle, before embarking on the preparation of detailed plans in full. The benefits of outline planning permission are a possible reduced initial expenditure and also the flexibility afforded to the applicant who may not necessarily wish to develop the land personally.

7.2 **Section 62(1) of the 2011 Act** states that ‘outline planning permission’ is as follows:-

Planning permission granted in accordance with the provisions of a development order, conditional on the subsequent approval by the council or, as the case may be, the Department of the particulars of the proposed development (...referred to as “reserved matters”).

7.3 **Article 2 of the GDPO** defines ‘reserved matters’ – refer to paragraph 7.15.

7.4 Under Article 2 of the GDPO an application for outline planning permission can only be made when the proposal involves the erection of buildings.

¹² Further guidance on D&AS is contained within Development Management Practice Note 12.

Section 250 of the 2011 Act states that 'erection' in relation to buildings includes extension, alteration and re-erection.

- 7.5 An applicant cannot seek outline planning permission for a change of use or for operations other than building operations as defined by **section 23 of the 2011 Act**. Furthermore, an outline planning application cannot be made in respect of development which has already been carried out.
- 7.6 In some instances the council or, as the case may be, the Department may be able to determine an outline planning application from the submission of the site location plan, which gives no details other than the extent of the site and its general location. However, there are many occasions when the relevant planning authority will require further information before outline planning permission may be granted.
- 7.7 **Article 4(2) of the GDPO** states that where the relevant council or, as the case may be, the Department is of the opinion that the application ought not to be considered separately from all or any of the reserved matters, it shall notify the applicant that it is unable to determine it unless further details are submitted, specifying the further details it requires.

Illustrative plans

- 7.8 In the case of an application for outline planning permission, details need not be given of any proposed reserved matters. However, if an applicant submits details of any of the 'reserved matters', unless the applicant has indicated that those details are submitted 'for illustrative purposes only' by stating this on the plans (or has otherwise indicated that they are not formally part of the application), they must be treated as part of the development in respect of the application that has been made. The planning authority cannot reserve that matter by condition for subsequent approval, unless the applicant is willing to amend the application by withdrawing the details.

Conditions relating to outline planning permissions

- 7.9 Where certain aspects of the development are crucial to the decision, consideration should be given to imposing relevant conditions when outline permission is granted. For example, it may be considered necessary to require a building to be constructed within a specified 'footprint' or to retain important landscape features which would affect the setting of the building and its neighbours. If the planning authority considers the precise form the development is to take or that access to the buildings should be from a particular road (or, alternatively, that there should be no means of access from a particular road), then a condition to this effect should be imposed on the outline planning permission.
- 7.10 The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those matters.
- 7.11 Once outline planning permission has been granted, it cannot be withdrawn except by a revocation order under **section 68 of the 2011 Act**, and any subsequent approval of reserved matters does not constitute the granting of a further planning permission.

Time limits in relation to outline planning permissions

- 7.12 **Section 62 of the 2011 Act** sets out the legislation for the duration of outline planning permission, namely, a grant of outline planning permission must be made subject to conditions imposing two types of time-limit;
- 1) within which applications must be made for the approval of reserved matters (section 62(2)(a)); and
 - 2) within which the development itself must be started (section 62(2)(b)).

7.13 The time periods specified in section 62(2) are:

- (a) that in the case of any reserved matter application for approval must be made within 3 years of the date of the grant of outline planning permission; and
- (b) that the development to which the permission relates must be begun by whichever is the later of the following dates-
 - (i) the expiration of 5 years from the date of the grant of outline planning permission; or
 - (ii) the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last matter to be approved.

7.14 If outline planning permission is granted without the use of a time condition, it shall be deemed to have been granted subject to those time conditions in section 62 mentioned above. However, alternative time periods in relation to the three years, five years and two years may be used in substitution as the planning authority considers appropriate.

Application for Approval of Reserved Matters

7.15 Article 2 of the GDPO provides that 'reserved matters' in relation to an outline planning permission or an application for such permission, means any of the following matters in respect of which details have not been given in the application, namely:-

- (a) siting;
- (b) design;
- (c) external appearance;
- (d) means of access; or
- (e) the landscaping of the site.

7.16 Whether all or just some of these matters are reserved will depend on the details an applicant has chosen to include at the outline application stage.

7.17 **Article 5 of the GDPO** provides for the submission of applications for approval of reserved matters and states that:-

An application for approval of reserved matters:-

- (a) shall give sufficient information to enable the council or, as the case may be, the Department to identify the outline planning permission in respect of which it is made;
- (b) shall include such particulars, and be accompanied by such plans and drawings as are necessary to deal with the matters reserved in the outline permission; and
- (c) shall be accompanied by 3 additional copies of the application, plans and drawings submitted with it, except where the council or, as the case may be, the Department indicates that a lesser number is required.

Consideration

7.18 When dealing with a reserved matters application consideration is restricted to those matters which have been reserved for approval and it is not appropriate to reconsider aspects of the overall principle of the development which had been approved at outline application stage.

7.19 Where a submission of reserved matters is clearly not in accordance with the outline planning permission to which it relates an applicant may be advised either to submit a full planning application or a new reserved matters application in accordance with the terms of the outline planning permission.

Separate submission of different reserved matters

7.20 An application for reserved matters approval associated with an outline planning permission may be made either for all reserved matters at once, or

for one or more at a time. Even after details relating to a particular reserved matter have been approved, one or more fresh applications may be made for approval of alternative details in relation to the same reserved matter. However, once the time-limit for submission of approval of reserved matters has expired, no further applications for such an approval can be made.

Time limits in relation to approval of reserved matters

- 7.21 Full details of all of the reserved matters are to be submitted before the expiry of three years from the grant of outline planning permission. The development to which the permission relates must be begun before the expiration of five years from the date of the grant of outline or the expiration of two years from the date of the final approval of the reserved matters.
- 7.22 A condition requiring the developer to obtain approval of reserved matters within a stated period should not be used, since the timing of an approval is not within the developer's control. A condition, therefore, should set time-limits only on the submission of reserved matters.

Application for full planning permission

- 7.23 An application for full planning permission should include all the particulars needed to describe a development in such a way that when permission is granted the development can proceed immediately.
- 7.24 **Section 24 of the 2011 Act** states that planning permission is required for the carrying out of any development of land, subject to the provisions of a development order e.g. development granted planning permission by way of the GDPO, that is, permitted development. In particular, an application for full planning permission must be made for the following types of development:
- (a) development already carried out (seeking retrospective planning permission);
 - (b) changes of use of land or buildings;

- (c) the carrying out of mining, engineering or operations other than building operations.

Time limit in relation to full planning permissions

- 7.25 Every grant of planning permission must, under section 61 of the 2011 Act, be made subject to a condition imposing a time-limit within which the development authorised must be started.
- 7.26 Section 61(1)(a) specifies a period of five years from the date of the permission, and section 61(1)(b) provides the council or, as the case may be, the Department with the option of granting permission subject to such other period (whether longer or shorter) as deemed appropriate.
- 7.27 Section 61(2) states that if planning permission is granted without the condition limiting the duration of the planning permission, it is deemed to be granted subject to the condition that the development to which it relates must be begun within 5 years of the date of the grant of permission.

Retrospective planning application

- 7.28 **Section 55 of the 2011 Act** allows for retrospective planning applications to be made i.e. where development has already been carried out without permission, and for applications for planning permission to authorise development which has been carried out without complying with some planning condition to which it was subject.
- 7.29 Special consideration may need to be given to conditions imposed on planning permissions granted under section 55. For example, the standard time-limiting condition will not be appropriate where development has begun before planning permission has been granted.
- 7.30 An application made under section 55 must be for full planning permission.

8.0 POST DECISION ACTIONS IN RELATION TO PLANNING APPROVALS

Application for non-material change to planning permission

8.1 Under the provisions of the 2011 Act an applicant can apply for a non-material change to a planning permission. **Section 67 of the 2011 Act** provides the mechanism for councils to decide if such a change is non-material or not.

8.2 There is no statutory definition of 'non- material'. The council must satisfy itself that the change is not material in order to grant an application under this provision. However, this is dependent on a number of factors such as the context of the overall scheme, the amendment being sought to the original planning permission and the specific circumstances of the site and surrounding area which will vary from one application to another.

8.3 **Article 7 of the GDPO** sets out the form and content of an application for a non-material change. It states that the application:

- shall be made in writing and give a description of the non-material changes sought, and
- provide sufficient information to identify the previous grant of planning permission.

8.4 Such an application, if approved, would form an amendment to the original planning permission and would be subject to the conditions and time limit of the original permission. It would not form a new planning permission and the existing permission will continue to exist and should be read in conjunction with the non-material change decision letter¹³. Therefore, a new decision notice is not required.

¹³ Further guidance in relation to non-material change applications can be found in Development Management Practice Note 25.

Application for permission to develop land without compliance with conditions previously attached.

- 8.5 **Section 54 of the 2011 Act** provides for an application to develop land without compliance with conditions previously attached to a planning permission. **Article 3(5) (b) of the GDPO** provides for the submission of applications under section 54. An application under section 54 shall be made in writing and give sufficient information to identify the previous grant of planning permission and any conditions in question. The relevant planning authority may, by direction in writing to the applicant, require further information to enable it to determine the application.
- 8.6 The relevant council or, as the case may be, the Department may decide whether to grant planning permission subject to differing conditions, remove the conditions altogether or refuse to alter conditions¹⁴. A decision notice is issued by the relevant council or, as the case may be, the Department.

Renewal of Planning Permission

- 8.7 Developers who are not in a position to commence development within the required timeframe may choose to apply for renewal of planning permission as the expiration of the time limit for implementation of the planning approval approaches. Under section 54(5) of the 2011 Act the time limit cannot be extended.
- 8.8 In the case of an extant outline permission, an application for renewal should be made before the expiration of the time period for submission of reserved matters.
- 8.9 **Under Article 3(5)(a) of the GDPO** applications for such a renewal may be made simply by letter, referring to the existing planning permission, although

¹⁴ Further guidance in relation to Section 54 applications can be found within Development Management Practice Note 24.

the planning authority has the power subsequently to require further information or plans if required.

Consideration

8.10 As a general rule, such applications should be considered and refused only where:

- (a) there has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant highway considerations, or the publication of new planning policy guidance, material to the renewal application);
- (b) continued failure to begin the development will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- (c) the application is premature because the permission still has a reasonable time to run.

This is not an exhaustive list and each application must be considered on a case by case basis.

Applications made under planning condition¹⁵

8.11 An application can be made to the council or, as the case may be, the Department for any consent, agreement or approval required by a condition imposed on a grant of planning permission (other than an application for approval of reserved matters). The relevant planning authority shall give notice to the applicant of its decision on the application within a period of 8 weeks from the date when the application was received by the authority or such longer period as may be agreed by the applicant and the council or, as the case may be, the Department in writing.

¹⁵ Article 12 of The Planning (General Development Procedure) Order (Northern Ireland) 2015 as amended.

8.12 These types of applications have often been associated with the discharge of planning conditions. It is important that applicants examine their planning permission closely in the event that any consent, agreement or approval would be required following the grant of a permission as this may impact upon the implementation of the development.

9.0 OTHER PLANNING CONTROLS - APPLICATIONS FOR CONSENT

9.1 In addition to applications for planning permission in relation to development proposals, planning applications for other types of planning controls may also be required depending on the proposal. These are applications for various types of consent as set out below:

Advertisement consent

9.2 **Section 130 of the 2011 Act** requires the Department to make provision, by regulations, for restricting or regulating the display of advertisements so far as it appears to the Department to be expedient in the interests of amenity or public safety.

9.3 **The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015** (the Advertisement Regulations) is the relevant statutory rule. Under regulation 8 of the Advertisement Regulations an application for **Consent to Display an Advertisement** must be made in writing to the appropriate council and must include the required information.

9.4 Under the Advertisement Regulations some types of advertisement are exempt from control by the relevant council provided certain conditions are met.

9.5 Other specified categories of advertisement are deemed to be granted by the Advertisement Regulations, commonly referred to as 'deemed consent',

provided they conform to the stated limitations for each category and a schedule of standard conditions¹⁶.

Listed building consent

- 9.6 The Department for Communities is required under **section 80** of the **2011 Act** to compile and maintain lists of the buildings of special architectural or historic interest. One of the consequences which follows from the inclusion of a building on this list is that the consent of the council, or the Department, is required for any works for demolition, alteration (exterior and interior) or extension which would affect its character. It is a criminal offence to carry out such works without consent.
- 9.7 **Section 85 of the 2011 Act** provides for the control of any works for demolition, alteration or extension of listed buildings. Such works to a listed building require written consent. This is in addition to the normal planning controls set out in Part 3 of the 2011 Act. If a proposal falls within the meaning of development and requires planning permission, then a normal planning application for operational development or change of use is also required. If this is the case, in terms of good practice, both applications should be submitted at the same time and considered concurrently.
- 9.8 The **Planning (Listed Buildings) Regulations (Northern Ireland) 2015** (the Listed Buildings Regulations) is the relevant statutory rule. Under regulation 2 of the Listed Building Regulations an application for **Listed Building Consent** must be made in writing to the appropriate council and must include and be accompanied by the required information.
- 9.9 In certain instances planning permission may not be required e.g. for internal works to a listed building. A building is listed in its entirety, externally

¹⁶ Guidance in relation to applications for advertisement consent can be found in Development Management Practice Note 07.

and internally. However, internal works fall outside the meaning of development. In such circumstances only listed building consent is required¹⁷.

Conservation Area Consent (to demolish buildings)

9.10 **Section 105 of the 2011 Act** provides that consent of the relevant planning authority is required to demolish any unlisted building in a conservation area. This is referred to as **Conservation Area Consent**. Control of demolition under section 105 applies to all buildings in conservation areas other than those specified in section 105(1) namely:

- (i) listed buildings;
- (ii) buildings of a class specified in section 85(8) (historic monuments or buildings used for ecclesiastical purposes);
- (iii) buildings in relation to which a direction under subsection (4) (*of section 105*) is for the time being in force.

9.11 Section 105(1) states that a building to which section 105 applies shall not be demolished without the consent of the planning authority¹⁸.

9.12 The **Planning (Conservations Areas) (Demolition) Regulations (Northern Ireland) 2015** (the Conservation Areas Demolition Regulations) is the relevant statutory rule. Under regulation 3 of the Conservation Areas Demolition Regulations an application for **Conservation Area Consent** must be made in writing to the appropriate council and must include and be accompanied by the required information.

¹⁷ Guidance in relation to applications for listed building consent can be found in Development Management Practice Note 05.

¹⁸ Planning permission is also required for demolition in an Area of Townscape Character and Area of Village Character as permitted development rights are excluded under Part 33 A1 of The Planning (General Development Procedure) Order (Northern Ireland) 2015 as amended (the GDPO).

Hazardous Substances Consent

- 9.13 **Section 108 of the 2011 Act** stipulates that the presence of a hazardous substance on, over and under land requires the consent of the council unless otherwise specified.
- 9.14 **The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015** (the Hazardous Substances Regulations) is the relevant statutory rule. Regulation 5 sets out the requirements for an application for **Hazardous Substances Consent** made to a council¹⁹.

10.0 ASSESSMENTS WHICH MAY BE REQUIRED TO ACCOMPANY A PLANNING APPLICATION

Environmental Impact Assessment

- 10.1 Environmental Impact Assessment (EIA) is a process for ensuring that the likely effects of new development on the environment are fully identified, understood and taken into account before consent is given for a development to proceed.
- 10.2 Certain types of proposals require the submission of an Environmental Statement. If an application falls within **Schedule 1** to the **Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017** (the EIA Regulations) it is EIA development and the submission of an accompanying Environmental Statement is mandatory. If an application falls within **Schedule 2** to the EIA Regulations, an assessment of the proposals potential impacts and the significance of those impacts should be undertaken to determine if an Environmental Statement is required.
- 10.3 A prospective applicant may, prior to submission of a planning application, seek a written determination from the relevant council or, as the case may be,

¹⁹ Guidance in relation to applications for hazardous substances consent and related matters can be found in Development Management Practice Note 06.

the Department as to the requirement for an EIA. A screening determination is a written statement from the relevant planning authority giving a determination as to whether or not a prospective application is EIA development. It takes into account information provided by the developer and in accordance with the EIA Regulations the relevant authority will provide a determination as to the need for an EIA and, if requested by the developer, an opinion as to the content of the environmental statement²⁰.

Habitat Regulations Assessment

- 10.4 This is an additional legislative requirement placed upon the planning decision-making process by virtue of the **Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995** as amended²¹ (Habitats Regulations), which implements the following European directives: Directive 2009/147/EC on the conservation of wild birds and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora [commonly known as the **Habitats Directive**].
- 10.5 The Habitat Regulations Assessment (HRA) is a recognised step by step process which helps determine likely significant effects and (where appropriate) assess adverse impacts on the integrity of a Natura 2000 site²², examines alternative solutions, and can provide justification for the authorisation of the plan/project if there are imperative reasons of over-riding public interest for development.
- 10.6 It is the responsibility of the developer to submit sufficient information with the application to enable the council or, as the case may be, the Department to undertake a HRA. It must show beyond reasonable doubt whether any European sites (Natura 2000) are likely to be affected by the proposal, either alone or in combination with other plans or projects, describe the likely impacts on the conservation objectives of the European sites (which may be

²⁰ Refer to The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017.

²¹ The Habitats Regulations were amended by amendment regulations in 2004, 2007, 2009, 2011, 2012 and 2015.

²² Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) form a coherent ecological network across Europe and are collectively known as Natura 2000 sites [N2000 or N2K].

direct or indirect, temporary or permanent, or a combination of these) and describe whether the impacts are likely to be significantly adverse.

Other Supporting Information

10.7 There is a range of supporting information that may be required to be submitted in order to determine a planning application dependent upon the particular circumstances of the proposal and the type of application submitted. Some other examples of such assessments/reports include:

- Archaeological Survey and Report
- Biodiversity Survey and Report
- Flood Risk Assessment
- Land Contamination Assessment
- Landscaping details
- Tree Surveys
- Noise Assessment
- Parking Surveys
- Transport Assessment
- Economic Appraisal
- Structural Reports
- Retail Impact Assessment

10.8 This is not an exhaustive list but provides an indication of the broad range of additional information that may be sought depending on the complexity of the proposal and/or the particular circumstances of the site in question.



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