Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2006 No. (N.I.)

NORTHERN IRELAND

The Planning Reform (Northern Ireland) Order 2006

Made - - - - 2006
Coming into operation in accordance with Article 1(2) to (5)

At the Court at Buckingham Palace, the ** day of ** 2006

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Planning Reform (Northern Ireland) Order 2006.

(2) This Part shall come into operation on the expiration of 7 days from the day on which this Order is made.

(3) The following provisions shall come into operation on such day or days as the Department may by order appoint—

(a) Articles 3 to 8;

(b) Article 15;

(c) Article 28(2) and Schedule 5 so far as relating to Article 26 of the principal Order, the Further Education (Northern Ireland) Order 1997 (NI 15) and Article 30 of the Planning (Amendment) (Northern Ireland) Order 2003 (NI 8);

(d) Parts III and V.

(4) The remaining provisions of this Order shall come into operation on the expiration of one month from the day on which this Order is made.

(5) An order under paragraph (3) may contain such transitional or saving provisions as appear to the Department to be necessary or expedient.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"the principal Order" means the Planning (Northern Ireland) Order 1991 (NI 11);

"the Department" means the Department of the Environment;

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(3) Words and expressions used in this Order and in the principal Order have the same meaning in this Order as they have in that Order.

PART II

PLANNING REFORM

Statement of community involvement

3. After Article 3 of the principal Order insert—

"**Statement of community involvement**

3A.—(1) The Department shall prepare a statement of community involvement.

(2) The statement of community involvement is a statement of the Department's policy as to the involvement in the exercise of the Department's functions under Article 4 and Part IV of persons who appear to the Department to have an interest in matters relating to development in the area in which they live.".

Status of development plans

4.—(1) In Article 4 of the principal Order (development plans), after paragraph (2) insert—

"(2A) Where, in making any determination under this Order, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.".

(2) Article 30 of the Planning (Amendment) (Northern Ireland) Order 2003 (NI 8) (status of development plans) ceases to have effect.

Independent examination of development plans

5.—(1) For Article 7 of the principal Order (inquiries relating to development plans) substitute—

"**Independent examination**

7.—(1) The Department may cause 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.

(2) Any person who makes objections to a development plan or to the alteration, repeal or replacement of a development plan shall, if he so requests, be given the opportunity to appear before and be heard by the planning appeals commission.".

(2) In Article 8 of the principal Order (adoption of development plan by Department), in paragraph (1) for "a public local inquiry" substitute "an independent examination".

(3) In Article 111 of the principal Order (procedure of planning appeals commission)—

(a) in paragraph (2), after "inquiry" wherever that word occurs, insert ", independent examination";

(b) in paragraph (6)—

(i) for "an inquiry" substitute "an inquiry or independent examination";

(ii) for "or inquiry" substitute ", inquiry or independent examination".

Sustainable development

6. In Part III of the principal Order, after Article 10 insert—

"**Sustainable development**

10A.—(1) Where the Department or the planning appeals commission exercises any function under Article 3(1) or this Part, the Department or, as the case may be, the commission shall exercise that function with the objective of contributing to the achievement of sustainable development.

(2) For the purposes of paragraph (1) the Department and the commission shall have regard to policies and guidance issued by—

(a) the Department;

(b) the Department for Regional Development.".

Development to include certain internal operations

7.—(1) In Article 11 of the principal Order (meaning of "development"), after paragraph (2) insert—

"(2A) The Department may in a development order specify any circumstances or description of circumstances in which paragraph (2) does not apply to operations mentioned in sub-paragraph (a) of that paragraph which have the effect of increasing the gross floor space of the building by such amount or percentage amount as is so specified.".

(2) This paragraph applies if—

(a) Article 11(2) of the principal Order is disapplied in respect of any operations by virtue of a development order under Article 11(2A) of that Order,

(b) at the date the development order comes into operation a certificate under Article 83B of the principal Order (certificate of lawfulness of proposed use or development) is in force in respect of the operations, and

(c) before that date no such operations have begun.

(3) If paragraph (2) applies the certificate under Article 83B of the principal Order is of no effect.

(4) A development order made for the purposes of Article 11(2A) of the principal Order does not affect any operations begun before it is made.

Statements of principles of design and accessibility

8.—(1) In Article 20 of the principal Order (form and content of planning applications), after paragraph (2) insert—

"(2A) A development order shall require an application for planning permission of such description as is specified in the order to be accompanied by such of the following as is so specified—

(a) a statement about the design principles and concepts that have been applied to the development;

(b) a statement about how issues relating to access to the development have been dealt with.

(2B) The form and content of a statement mentioned in paragraph (2A) is such as is required by the development order.".

(2) In paragraph 1 of Schedule 1 to the principal Order (applications for listed buildings consent), after sub-paragraph (1) insert—

"(1A) Regulations shall require an application for listed building consent of such description as is prescribed to be accompanied by such of the following as is prescribed—

(a) a statement about the design principles and concepts that have been applied to the works in relation to which the application is made;

(b) a statement about how issues relating to access to the building have been dealt with.

(1B) The form and content of a statement mentioned in sub-paragraph (1A) is such as is prescribed.".

(3) Article 26 of the principal Order ceases to have effect.

Power to decline to determine applications

9.—(1) For Article 25A of the principal Order (power of Department to decline to determine applications) substitute—

"**Power to decline to determine subsequent application**

25A.—(1) The Department may decline to determine a relevant application if—

(a) any of the conditions in paragraphs (2) to (4) is satisfied; and

(b) the Department thinks there has been no significant change in the relevant considerations since the relevant event.

(2) The condition is that in the period of 2 years ending with the date on which the application mentioned in paragraph (1) is received the Department has refused a similar application under Article 31.

(3) The condition is that in that period the planning appeals commission has dismissed an appeal—

(a) against the refusal of a similar application; or

(b) under Article 33 in respect of a similar application.

(4) The condition is that—

(a) in that period the Department has refused more than one similar application; and

(b) there has been no appeal to the planning appeals commission against any such refusal.

(5) A relevant application is an application for planning permission for the development of any land.

(6) The relevant considerations are—

(a) the development plan so far as material to the application;

(b) any other material considerations.

(7) The relevant event is—

(a) for the purposes of paragraphs (2) and (4) the refusal of the similar application;

(b) for the purposes of paragraph (3) the dismissal of the appeal.

(8) An application for planning permission is similar to another application if (and only if) the Department thinks that the development and the land to which the applications relate are the same or substantially the same.

Power to decline to determine overlapping application

25AA.—(1) The Department may decline to determine an application for planning permission for the development of any land which is made at a time when any of the conditions in paragraphs (2) to (4) applies in relation to a similar application.

(2) The condition is that a similar application is under consideration by the Department and the determination period for that application has not expired.

(3) The condition is that a similar application is under consideration by—

(a) the Department in pursuance of Article 31; or

(b) the planning appeals commission on an appeal under Article 32 or 33,

and the Department or, as the case may be, the planning appeals commission, has not issued its decision.

(4) The condition is that a similar application—

(a) has been granted by the Department;

(b) has been refused by the Department; or

(c) has not been determined by the Department within the determination period,

and the time within which an appeal could be made to the planning appeals commission under Article 32 or 33 has not expired.

(5) An application for planning permission is similar to another application if (and only if) the Department thinks that the development and the land to which the applications relate are the same or substantially the same.

(6) The determination period is—

(a) the period specified by the development order for the determination of the application; or

(b) such longer period as the applicant and the Department have agreed for the determination of the application.".

(2) In Article 33(c) of the principal Order (appeal in default of planning decision), after "25A" insert "or 25AA".

(3) After paragraph 4 of Schedule 1 to the principal Order (determination of applications for listed building consent) insert—