1995 No. 78

PLANNING

Planning (Fees) Regulations (Northern Ireland) 1995

Made	*8th March 1995*
Coming into operation . .	*3rd April 1995*

The Department of the Environment, in exercise of the powers conferred by Articles 127 and 129(1) of the Planning (Northern Ireland) Order 1991(**a**) and of every other power enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Planning (Fees) Regulations (Northern Ireland) 1995 and shall come into operation on 3rd April 1995.

Interpretation

2.—(1) In these regulations—

"the 1991 Order" means the Planning (Northern Ireland Order 1991;

"the Control of Advertisements Regulations" means the Planning (Control of Advertisements) Regulations (Northern Ireland) 1992(**b**);

"the Commission" means the Planning Appeals Commission;

"dwellinghouse" means a building or part of a building which is used as a single private dwellinghouse, and for no other purpose;

"the General Development Order" means the Planning (General Development) Order (Northern Ireland) 1993(**c**);

"glasshouse" means a building which—

(*a*) has not less than three-quarters of its total external area comprised of glass or other translucent material;

(*b*) is designed for the production of flowers, fruit, vegetables, herbs or other horticultural produce; and

(*c*) is used, or is to be used, solely for the purposes of agriculture;

"outline planning permission" means planning permission granted in accordance with the provisions of a development order, conditional on the subsequent approval by the Department of the particulars of the proposed development;

(**a**) S.I. 1991/1220 (N.I. 11). Art 2(2) contains definitions of "the Department" and "prescribed"
(**b**) S.R. 1992 No. 448
(**c**) S.R. 1993 No. 278

"reserved matters" has the same meaning as in Article 2 of the General Development Order;

"use for residential purposes" means use as a dwellinghouse;

"use of land" includes use of land for the winning and working of minerals.

(2) Expressions used in regulation 15 and Schedule 2 have the same meaning as in the Control of Advertisements Regulations.

Fees for planning applications

3.—(1) Subject to regulation 4, where an application is made to the Department for planning permission or, for the approval of reserved matters, a fee shall be paid to the Department in accordance with the provisions of these regulations.

(2) Subject to regulations 10, 11 and 19(2), the fee in respect of the application shall be calculated in accordance with the provisions of Schedule 1.

(3) Any fee paid pursuant to this regulation shall be refunded if the application is rejected as invalidly made.

Exemptions

4.—(1) Regulation 3(1) shall not apply where the Department is satisfied that the application relates solely to—

(*a*) the carrying out of operations for the alteration or extension of an existing dwellinghouse; or

(*b*) the carrying out of operations (other than the erection of a dwellinghouse) in the curtilage of an existing dwellinghouse, for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure his greater safety, health or comfort.

(2) Regulation 3(1) shall not apply where the Department is satisfied that the application relates solely to the carrying out of operations for the purpose of providing means of access for disabled persons to or within a building or premises to which members of the public are admitted (whether on payment or otherwise).

(3) In this regulation, "disabled person" means a person who is within any of the descriptions of persons to whom section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978(**a**) applies.

5. Regulation 3(1) shall not apply where the Department is satisfied—

(*a*) that the application relates to the use of a building or other land for a purpose of a class specified in the Planning (Use Classes) Order (Northern Ireland) 1989(**b**) and solely to such use; and

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(**a**) 1978 c. 53 as amended by S.I. 1986/595 (N.I. 4) Sch. 5 Pt. II
(**b**) S.R. 1989 No. 290

(*b*) that the existing use of that building or other land is for another purpose of the same class; and

(*c*) that the making of an application for planning permission in respect of the use to which the application relates is necessary by reason of (and only by reason of) a condition imposed on a permission granted or having the like effect as a permission granted under Part IV of the 1991 Order.

Cases where reduced fees apply

6.—(1) Regulation 3(2) shall not apply where—

(*a*) the application relates to development which is within one or more of the classes specified in Schedule 1 to the General Development Order and solely to such development; and

(*b*) the permission granted by Article 3 of that Order does not apply in respect of that development by reason of (and only by reason of)—

(i) a direction made under Article 4 of that Order which is in force on the date when the application is made; or

(ii) the requirements of a condition imposed on any permission granted or having the like effect as a permission granted under Part IV of the 1991 Order.

(2) The reference in paragraph (1)(*a*) to an application which relates to development which is within one or more of the classes specified in Schedule 1 to the General Development Order shall be construed as including an application for planning permission for the continuance of a use of land, or the retention of buildings or works on land, without compliance with a condition subject to which a previous planning permission has been granted, where the condition in question prohibits or limits the carrying out of any development which is within one or more of the said classes.

7.—(1) Where the conditions set out in paragraph (2) are satisfied, regulation 3(2) shall not apply to—

(*a*) an application for planning permission which is made by or on behalf of the same applicant following the granting of planning permission (whether by the Department or by the Commission on appeal) for development which the Department is satisfied is of the same character or description as the development to which the application relates;

(*b*) an application for approval of one or more reserved matters which is made by or on behalf of the same applicant following the granting of approval (whether by the Department or by the Commission on appeal) of details relating to the same matters reserved in the same outline planning permission.

(2) The conditions referred to in paragraph (1) are—

(*a*) that the application is made before the end of a period of 12 months following the date of the relevant grant of planning permission or grant of approval of details of reserved matters, as the case may be;

(*b*) that the application relates—

(i) in the case of an application for planning permission, to the same site as that to which the grant of planning permission related, or to part of that site, and to no other land (save that where additional land is included in the application solely for the purpose of providing a means of access to the site which differs from that authorised by the planning permission, that land shall be disregarded for the purposes of this paragraph);

(ii) in the case of an application for approval of reserved matters, to the same land as that in respect of which the approval was granted, or to part of that land (and no other land);

(*c*) in the case of an application for planning permission which is not made in outline, that the planning permission which has been granted is not an outline planning permission;

(*d*) that no previous application has at any time been made by or on behalf of the same applicant which related to the site to which the relevant grant of planning permission or grant of approval of reserved matters, as the case may be, relates (or which related wholly or in part to any part of that site) and which was exempted from regulation 3(2) by this regulation.

8. Regulation 3(2) shall not apply to an application for permission to carry out development consisting of the winning and working of minerals where the application—

(*a*) is for a permission which consolidates 2 or more subsisting permissions; and

(*b*) does not seek permission for development which is not authorised by a subsisting permission.

9.—(1) Where the conditions set out in paragraph (2) are satisfied, regulation 3(2) shall not apply to—

(*a*) an application for planning permission which is made following the withdrawal (before notice of decision was issued) of an application for planning permission made by or on behalf of the same applicant;

(*b*) an application for planning permission which is made following the refusal of planning permission (whether by the Department or by the Commission) on an application for planning permission made by or on behalf of the same applicant;

(*c*) an application for planning permission which is made following the making of an appeal to the Commission under Article 33 of the 1991 Order (appeal in default of planning decision) in relation to an application for planning permission made by or on behalf of the same applicant;

(*d*) an application for approval of one or more reserved matters which is made following the withdrawal (before it is determined) of an application made by or on behalf of the same applicant for approval of details relating to the same matters reserved in the same outline planning permission;

(*e*) an application for approval of one or more reserved matters which is made following the refusal (whether by the Department or by the Commission) to approve details relating to the same reserved matters which were submitted in an application made by or on behalf of the same applicant and in relation to the same outline planning permission;

(*f*) an application for approval of one or more reserved matters which is made following the making of an appeal to the Commission under Article 33 of the 1991 Order in relation to an application made by or on behalf of the same applicant for approval of details relating to the same reserved matters referred to in the same outline planning permission.

(2) The conditions referred to in paragraph (1) are—

(*a*) that the application is made before the end of a period of 12 months following—

(i) the date when an earlier application was made, in the case of a withdrawn application;

(ii) the date when (by virtue of Article 33 of the 1991 Order and Article 11(2) of the General Development Order) the period for the giving of notice of a decision on the earlier application expired, in the case of an application which is made following an appeal under Article 33 of the 1991 Order;

(iii) the date of the refusal, in any other case;

(*b*) that the application relates—

(i) in the case of an application for planning permission, to the same site as that to which the earlier application related, or to part of that site, and to no other land (other than additional land required for the provision of access to the development);

(ii) in the case of an application for approval of reserved matters, to the same land as that to which the earlier application related, or to part of that land (and no other land);

(*c*) in the case of an application for planning permission, that the Department is satisfied that it relates to development of the same character or description as the development to which the earlier application related (and to no other development);

(*d*) in the case of an application for planning permission which is not made in outline, that the earlier application was also not made in outline;

(*e*) that the fee payable in respect of the earlier application was paid;

(*f*) that no previous application has at any time been made by or on behalf of the same applicant which related to the site to which the earlier application related (or which related wholly or in part to any part of that site) and which was exempted from regulation 3(2) by this regulation or exempted under the corresponding provisions of the Planning (Fees) Regulations (Northern Ireland) 1992(**a**).

(**a**) S.R. 1992 No. 97