



Your Permitted Development Rights & Environmental Assessment

INFORMATION LEAFLET 1
(Revised February 2000)

This leaflet explains how permitted development rights in Northern Ireland may be affected by Environmental Impact Assessment.

Environmental Impact Assessment (EIA) is needed for development projects which are likely to have significant effects on the environment. For a project which needs planning permission EIA takes place as part of the preparation and consideration of the planning application.

The Planning (General Development) Order (Northern Ireland) 1993¹ (the GDO) grants planning permission, without the need for a planning application, for classes of development described as **permitted development**.

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999² (the EIA Regulations) amend the GDO to ensure that it does not grant planning permission for certain types of development which is likely to have significant effects on the environment. Such development has to be the subject of a planning application. The application must be accompanied by an **environmental statement (ES)**, a publicly available document setting out the developers own assessment of the projects likely significant effects on the environment. **Table 1** shows how these arrangements work.

What is Environmental Impact Assessment (EIA)?

EIA is a process by which information about the environmental effects of a project is collected, assessed and taken into account by the Planning Service in reaching a decision on whether the proposed development should be granted planning permission.

What type of development is subject to EIA?

Some development projects, known as Schedule 1 projects because they are listed in Schedule 1 of the EIA Regulations, will always need EIA. These projects will rarely, if ever, be permitted development. Other projects, known as Schedule 2 projects because they are listed in Schedule 2 to the EIA Regulations, are likely

¹ S. R. 1993 No. 278

² S. R. 1999 No. 73

to require EIA if the proposed development or any part of it is in a sensitive area or any threshold in column 2 of that Schedule is exceeded or met. For example EIA is likely to be required for an intensive livestock installation in, or partly in a sensitive area, or one which exceeds 500 square metres in area and is outside a “sensitive area” (see below).

If EIA is required a planning application accompanied by an environmental statement must be submitted to your local Divisional Planning Office. Staff there can give advice on the range of projects that could be affected. Advice is also available in Development Control Advice Note 10 (revised 1999)³.

What is a sensitive area?

A sensitive area is an area of special scientific interest, an area of outstanding natural beauty, a National Park, a World Heritage Site, a Scheduled Monument or a European Site⁴ (eg Special Areas of Conservation under the Habitats Directive or Special Protection Areas under the Wild Birds Directive).

Who decides whether EIA is needed?

As a developer you may conclude that your particular project should be subject to EIA. If so you should submit a planning application accompanied by an ES. The EIA Regulations will then apply in the normal way (see “What if the proposal is EIA development?”)

Alternatively, after checking the EIA Regulations, you may conclude that EIA is not required for a particular project – projects outside sensitive areas and below the thresholds in column 2 of Schedule 2 to the EIA Regulations do not require EIA.

However, for projects where all or part of the development is in a sensitive area or the threshold in column 2 of Schedule 2 to the EIA Regulations is exceeded or met, *you must seek a determination* from your Divisional Planning Office as to whether the project is EIA development i.e. likely to have significant environmental effects. You may also consult the Divisional Planning Office if you are

uncertain if the development would require EIA.

There is no fee payable for the determination on the need for EIA, although any subsequent application for planning permission will be subject to the usual payment of fees.

What happens if I do not agree with the EIA determination?

If you do not accept the Planning Service’s decision that EIA is required you may ask for a hearing before the Planning Appeals Commission (PAC). You must notify the Planning Service that you accept the determination or that you propose to seek a hearing before the PAC within 4 weeks of the determination. The PAC or your Divisional Planning Office can advise you on the procedure to be followed.

Enforcement

If you start development which is of a type in Schedule 1 or 2 under what you believe to be permitted development rights and EIA is required, this could give rise to problems and may even result in enforcement action being taken against you by the Planning Service. It is therefore best to check in the first instance.

Which Permitted Development proposals are likely to require EIA?

The majority of projects which benefit from permitted development rights, such as domestic garages, house extensions and most farm buildings will not require EIA. Currently only a very small number of planning applications require EIA. However certain development such as farm buildings for housing livestock may require EIA depending on whether the development is situated in or near a sensitive area, the size of the building, the number of livestock to be housed, and the number of livestock already present.

However if the development is within the categories in Schedule 1 of the EIA Regulations, EIA is mandatory. If it is a type listed in Schedule 2 and in, or partly in a sensitive area, or if it meets or exceeds the threshold in Column 2 of Schedule 2 *you must not proceed under permitted development rights until the Planning Service has given a written determination that EIA is not required.*

³ DIVISIONAL CONTROL ADVICE NOTE 10 IS AVAILABLE FROM DIVISIONAL PLANNING OFFICES

⁴ FOR MORE INFORMATION SEE PPS 2 – Planning and Nature Conservation, available from Divisional Planning Offices

The Planning Service considers that the number of permitted development proposals which will require EIA will be small.

How does the Planning Service judge if development is EIA development?

Planning Service checks to see if the development is of a type listed in Schedule 1 or Schedule 2 of the EIA Regulations. If it is in Schedule 1, it is EIA development and a planning application and ES will be required. If it is in Schedule 2 and meets or exceeds the threshold in Column 2 of that Schedule or if it is in, or partly in a sensitive area, then the Planning Service must decide if it is EIA development requiring the submission of a planning application accompanied by an ES.

A number of factors including the nature, scale and location of the proposal will be very important in making the determination. However, you should not automatically assume that EIA will be required, simply because the proposal is in or near a sensitive area. Similarly, you should not assume that a proposal outside a sensitive area will not require EIA.

What if the proposal is EIA development?

If a proposal is EIA development then planning permission must be granted before the proposal can go ahead. A planning application accompanied by an ES, and the appropriate fee must be submitted to the relevant Divisional Planning Office.

The Divisional Planning Office will advise you of the amount of the fee.

The EIA Regulations set out the statutory requirements and what an ES must cover. If you wish the Divisional Planning Office will, on request, give you an opinion as to the information to be provided in the ES. This is known as “scoping”. They will also advise you on the procedures to be followed.

You may choose to seek independent advice or engage consultants to prepare the ES for you. Government Departments and other environmental authorities with relevant information should be consulted and will make relevant information available to you. These bodies may make a reasonable charge for the supply of this information.

It is always advisable to discuss the proposal with the Divisional Planning Office at an early stage. This should help speed up the application and avoid unnecessary problems.

Whether or not EIA is required has no bearing on whether planning permission will be granted, although the environmental factors together with any proposed mitigation measures will be material considerations in the determination of the application.

What are the benefits of EIA?

EIA allows the likely significant environmental effects of a project to be identified and to be avoided, remedied or minimised at an early stage. Nevertheless, the general public is often concerned about the possibility of unknown or unforeseen environmental effects of particular development. Where a planning application is accompanied by an ES the Planning Service will advertise the availability of the ES and take any representations about the likely environmental effects into consideration in making its decision. By making the information on the likely significant effects available. EIA can help allay fears created by a lack of information.

DOES YOUR PROPOSAL REQUIRE ENVIRONMENTAL IMPACT ASSESSMENT? TABLE 1

