



Department of the
Environment
www.doeni.gov.uk



Department of
**Agriculture and
Rural Development**
www.dardni.gov.uk

**A Joint Consultation by the
Department of the Environment
Department of Agriculture and Rural Development**

Planning Permitted Development Rights for Agricultural Buildings and Operations

Proposed Amendment

Public Consultation Paper

June 2005

Published by:
Policy and Legislation Branch
Planning Service Headquarters
Millennium House
17-25 Great Victoria Street
Belfast
BT2 7BN

PLANNING PERMITTED DEVELOPMENT (PD) RIGHTS FOR AGRICULTURAL BUILDINGS AND OPERATIONS

Proposed Amendment

CONTENTS	PAGE
Introduction	5
Background	5
Permitted Development Rights	6
Views	8
Equality Impact Assessment	8
Human Rights Act 1998	8
Rural Proofing	8
Consultation Arrangements	9
Freedom of Information Act 2004 – Confidentiality of Consultations	10
Annex 1 Part 6 - Planning (General Development) Order (Northern Ireland) 1993	11
Annex 2 Part 6 - Town and Country Planning (General Permitted Development) Order 1995	13
Annex 3 Screening for Equality Impact Assessment	20
Annex 4 Rural Proofing	22
Annex 5 Consultee List	24

Introduction

1. The purpose of this Consultation Paper is to seek views on a possible change to planning permitted development rights to facilitate compliance with the action programme being finalised by the Department of the Environment (DOE) and the Department of Agriculture and Rural Development (DARD) for implementation of the Nitrates Directive.

Background

2. Permitted development rights are provided by the Planning (General Development) (Northern Ireland) Order 1993 (the 'GDO'), to allow certain, often minor or non-contentious, types of development to proceed without the need for a planning application, since planning permission for them is deemed to be granted. Such rights help reduce the number of planning applications and the regulatory burden of the planning system.
3. The Planning Service reviewed permitted development (PD) rights in 2003 as part of its Modernising Planning Processes initiative¹. A consultation document² and the accompanying consultants report were then published in September 2003. The Planning Service is at an advanced stage in the analysis of the responses to that consultation and identifying possible changes to PD rights.
4. However, subsequent to the public consultation on PD rights, DOE (Environmental Policy Group) and DARD have been engaged in the implementation of the Nitrates Directive³. The Nitrates Directive seeks to reduce or prevent water pollution caused by the application and storage of organic manure and chemical fertiliser on farmland. A joint DOE/DARD consultation on the action programme to implement the Directive commenced on 21 February 2005⁴. One of the proposed measures in the action programme is a requirement for a minimum of 22 weeks slurry storage capacity on the agricultural unit. Farmers will require larger slurry storage than they have at present. Where this development does not comply with permitted development rights provided in the GDO, farmers will need to apply for planning permission.
5. Providing aid for additional slurry storage capacity will target funding to

¹ Modernising Planning Processes Implementation Plan - February 2003

² Review of Permitted Development Rights - September 2003

³ EC Nitrates Directive 91/676/EEC

⁴ Proposed Action Programme Measures for the Protection of Northern Ireland's Waters - February 2005

achieve the greatest environmental benefit. As well as enabling farmers to spread manures when climatic and soil conditions are suitable, therefore reducing the risk of nutrient run off, the extra capacity will allow farmers the flexibility to make the most efficient use of manure fertiliser by spreading it when crop uptake of nutrients is optimal. This will also help reduce the use of chemical fertilisers and, thereby, reduce overall nutrient loadings on soils. It is envisaged that the environmental benefit derived from the Farm Nutrient Management Scheme will be significant.

6. However, for a significant number of farmers (estimated by DARD at around 1200) the additional slurry storage facilities will require an application for planning permission. This has raised two issues. Firstly, Ministers are committed to keeping the bureaucracy and paperwork associated with the implementation of the Nitrates Directive to a minimum. Secondly, there is a timetable for claiming grant aid towards the additional slurry storage arrangements (under the Farm Nutrient Management Scheme State Aid Approval, works must be completed and grant aid claimed by the end of November 2006) and for implementation of the Directive by 1 January 2007.
7. The industry has expressed concern that farmers are not only being faced with having to make major investment in storage, but are being frustrated by bureaucracy and the associated costs associated with having to obtain planning permission. Consideration is therefore being given to extending PD rights to reduce the number of slurry tanks requiring applications for planning permission and thereby assist with the implementation of the Directive. The purpose of this consultation paper is to explain the change under consideration and take your views.

Permitted Development Rights

8. The PD rights relating to 'Agricultural Buildings and Operations' are contained in Part 6 of Schedule 1 to the GDO (see Annex 1). Part 6 was included in the review of permitted development rights referred to earlier. The relevant section of the consultant's report and the consultation responses relating to Part 6 and to PD rights in sensitive areas have been made available on the Planning Service website at www.planningni.gov.uk for the purpose of informing those responding to this consultation.
9. The notable constraint in Part 6 that impinges upon the action programme to implement the Nitrates Directive is that development is not permitted under Class A of Part 6 where the ground area covered by the building exceeds 300 m².

10. DARD has estimated that over 1200 farms will require slurry storage facilities in excess of 300 m² and has therefore asked the Planning Service to consider increasing this figure. DARD has estimated, for example, that, if the 300 m² were increased to 465 m² the number of planning applications could drop from over 1200 to about 400.
11. A ground area of 465 m² is permitted by the Town and Country Planning (General Permitted Development) Order 1995⁵ in England and Wales but is subject to a permitted development rights regime (see Annex 2) which is different to that in Northern Ireland. Different PD rights apply to agricultural units of up to 5 hectares and of 5 hectares or more. The conditions that apply to those PD rights are different, e.g. the PD rights do not apply to building works for the accommodation of livestock or for the storage of slurry or sewage within 400 metres of the curtilage of any building occupied by people that is not within the agricultural unit. Development under both Classes of PD rights can also be subject to a requirement to give prior notification to the local planning authority, to enable it to determine whether prior approval should be required to the siting, design and external appearance of the building or other development.
12. The NI consultation on the review of permitted development rights in 2003 obviously predated the consultation in February this year on the action programme to implement the Nitrates Directive. However, the consultant's report on the review of permitted development rights commented:

10.51 If any change to the size of a permitted agricultural building or structure were to be taken forward, evidence would have to show first that the measures were necessary, based on clear evidence from case studies confirming either the need to permit larger buildings to overcome specific problems in meeting EU or other requirements, or in ASSIs, the benefits of reducing the size of permitted buildings and structures due to the detrimental effects of specified agricultural permitted development rights.

It was therefore anticipated that changes to PD rights might be needed to meet EU requirements, although no indication was given of what these might be.

13. From their review of Part 6, the consultants made recommendations which, if implemented following consideration of the responses to the consultation on the review, would place greater restrictions on Part 6 PD rights. In addition to considering increasing the ground area limit in Part 6, Planning Service might also postpone any changes to agricultural PD rights arising from the PD rights review until 'Nitrates' applications are dealt with, since those changes would generate additional planning applications for relevant development from the

⁵ S.I. 1995 No. 418

farming community.

Views

14. In light of the foregoing, your views are invited on the following:
 - Q. Should the existing Part 6 Class A of the GDO be amended to increase the 300 m² ground area limit for agricultural buildings?
 - Q. If your answer to the first question is 'Yes', what increase should be applied – should it be 465 m² or some other figure? Please justify your suggestion.
 - Q. Do you agree that further changes to Part 6 following the review of PD rights should be postponed until the 'Nitrates' applications are dealt with, whether the ground area limitation is increased or not?

Equality Impact Assessment

15. A preliminary screening exercise has been undertaken and there is no evidence that the proposed measures will have any impact on equality issues. The Department does not therefore consider a full Equality Impact Assessment to be necessary. The screening for equality impact assessment documentation is attached at Annex 3.

Human Rights Act 1998

16. The Department believes that this consultation document is compatible with the Human Rights Act 1998.

Rural Proofing

17. It is Government policy that all government Departments and Agencies intending to introduce a new policy should subject that policy to Rural Proofing. Annex 4 sets out the likely effects on the rural community of the proposed action programme measures.

Consultation Arrangements

Responding to this Consultation Paper

Please note that responses to this consultation paper should be received by the Planning Service no later than **31 July 2005**.

There are a number of ways you can respond:

Comments may be sent:

By post

Wilfrid Reavie
Planning Service Headquarters
PD Rights Consultation
Planning Service Headquarters
Millennium House
17 - 25 Great Victoria Street
Belfast
BT2 7BN

By Fax

Fax.(028) 90416960

By e-mail

E-mail wilfrid.reavie@doeni.gov.uk

The consultation paper is also available in Adobe Acrobat format for downloading from the Planning Service website at <http://www.planningni.gov.uk>. The Adobe Acrobat Reader 6 can be freely downloaded from www.adobe.com. Viewers with visual difficulties may find it useful to investigate services provided to improve the accessibility of Acrobat documents – <http://access.adobe.com>

A free online PDF to HTML or text conversion service is also available at: http://www.adobe.com/products/acrobat/access_onlinetools.html

We look forward to receiving comments and views concerning the proposals in this consultation paper. Additional copies of the consultation paper and copies in alternative formats, if desired, are available from the address above and may be requested by Telephone 028 90416966, Fax 028 90416960 or Textphone (028) 90540642.

Freedom of Information Act 2000 – confidentiality of consultations

Please note that the Departments may in due course wish to publish responses to this consultation document. The Departments will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request.

The Departments can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations which provide guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Departments in this case. This right of access to information includes information provided in response to a consultation. The Departments cannot automatically consider as confidential information supplied to them in response to a consultation. However, they do have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- Departments should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Departments' functions and it would not otherwise be provided;
- Departments should not agree to hold information received from third parties 'in confidence' which is not confidential in nature; and
- acceptance by the Departments of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses contact the Information Commissioner's Office (or see web site at:

<http://www.informationcommissioner.gov.uk/>).

Planning (General Development) Order (NI) 1993

PART 6

AGRICULTURAL BUILDINGS AND OPERATIONS

Class A

Permitted development

- A. The carrying out on agricultural land comprised in an agricultural unit of-**
- (a) works for the erection, extension or alteration of a building; or**
 - (b) any excavation or engineering operations; reasonably necessary for the purposes of agriculture within that unit.**

Development not permitted

- A.1 Development is not permitted by Class A if
- (a) the development is on agricultural land less than 0.5 hectares in area;
 - (b) it consists of or includes the erection, extension or alteration of a dwelling;
 - (c) a building, structure or works not designed for the purposes of agriculture is provided on the land;
 - (d) the nearest part of any building or structure so erected or extended is
 - (i) more than 75 metres from the nearest part of a group of principal farm buildings; and
 - (ii) where the building or structure is over 300 square metres in ground area is less than 75 metres from a dwellinghouse (other than the dwellinghouse of any person engaged in agricultural operations on the said unit);
 - (e) the ground area to be covered by
 - (i) any works or structure (other than a fence) for the purposes of accommodating livestock or any plant or machinery arising from engineering operations; or
 - (ii) any building erected or any building as extended or altered, other than a building to which paragraph A.1 (d) applies, by virtue of Class A; exceeds 300 square metres, calculated as described in paragraph A.2;
 - (f) the height of any part of the building, structure or works within 3 kilometres of the perimeter of an aerodrome exceeds 3 metres, or 12 metres in any other case;
 - (g) any part of the development is within 24 metres from the nearest part of a special road, or within 24 metres of the middle of a trunk or a first or second-class road or 9 metres from the middle of other classes of road.

Interpretation of Class A

- A.2 For the purposes of Class A
- (1) (a) the area of 0.5 hectares shall be calculated without taking into account any separate parcels of land;
 - (b) the ground area referred to in paragraph A.1 (e) is the ground area which the proposed development covers together with the ground area of any building (other than

a dwellinghouse), or any structure, works, plant or machinery within the same unit which is being provided or has been provided within the preceding 2 years and any part of which is within 75 metres of proposed development.

(2) "agricultural land" has the meaning assigned to it by the Agriculture Act (Northern Ireland) 1949(a);
 "agricultural unit" means land which is occupied as a unit for the purposes of agriculture other than fish farming but includes any dwellinghouse or other building occupied by the same person for the purpose of farming the land by the person who occupies the same unit;
 "building" does not include anything resulting from engineering operations.

Class B Permitted Development	B.	The winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.
<i>Development not permitted</i>	B.1	Development is not permitted by Class B if any excavation is within 24 metres of the nearest part of a special road or within 24 metres of the middle of a trunk or a first or second-class road or 9 metres from the middle of other classes of road.
<i>Conditions</i>	B.2	Development is permitted by Class B subject to the conditions (a) that no mineral extracted during the course of the operation shall be moved to any place outside the land from which it is extracted, except to land which is held or occupied with that land and is used for the purposes of agriculture; (b) the surface of the land shall be levelled and any topsoil replaced as the uppermost layer; (c) the land shall so far as practicable be restored to its former condition before the extraction took place.
<i>Interpretation of Class B</i>	B.3	For the purposes of Class B the expression "purposes of agriculture" includes fertilizing the land used for the purposes of agriculture, and the maintenance, improvement or alteration of any buildings, structures or works occupied or used for such purposes on land so used.
Class C Permitted development	C.	The construction, formation, laying out or alteration of a means of access to a road.
<i>Development not permitted</i>	C.1	Development is not permitted in Class C if (a) it is required in connection with development for which a planning application is necessary under Part IV of the 1991 Order; or (b) the land is within a site of archaeological interest.

Town and Country Planning (General Permitted Development) Order 1995

PART 6

AGRICULTURAL BUILDINGS AND OPERATIONS

Class A Development on units of 5 hectares or more

Permitted development

A. The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—

- (a) works for the erection, extension or alteration of a building; or**
 - (b) any excavation or engineering operations,**
- which are reasonably necessary for the purposes of agriculture within that unit.**

Development not permitted

A.1 Development is not permitted by Class A if—

- (a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;
- (b) it would consist of, or include, the erection, extension or alteration of a dwelling;
- (c) it would involve the provision of a building, structure or works not designed for agricultural purposes;
- (d) the ground area which would be covered by—
 - (i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or
 - (ii) any building erected or extended or altered by virtue of Class A, would exceed 465 square metres, calculated as described in paragraph D.2 below;
- (e) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;
- (f) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;
- (g) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;
- (h) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building; or
- (i) it would involve excavations or engineering operations on or over article 1(6) land which are connected with fish farming.

Conditions

A.2(1) Development is permitted by Class A subject to the following conditions—

- (a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, excavation or works resulting from the development shall not be used for the accommodation of livestock except in the circumstances described in paragraph D.3 below or for the storage of slurry or sewage sludge;
- (b) where the development involves—

- (i) the extraction of any mineral from the land (including removal from any disused railway embankment); or
 - (ii) the removal of any mineral from a mineral-working deposit, the mineral shall not be moved off the unit;
 - (c) waste materials shall not be brought on to the land from elsewhere for deposit except for use in works described in Class A(a) or in the provision of a hard surface and any materials so brought shall be incorporated forthwith into the building or works in question.
- (2) Subject to paragraph (3), development consisting of—
- (a) the erection, extension or alteration of a building;
 - (b) the formation or alteration of a private way;
 - (c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.4 below, exceeds 0.5 hectare); or
 - (d) the placing or assembly of a tank in any waters, is permitted by Class A subject to the following conditions—
 - (i) the developer shall, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;
 - (ii) the application shall be accompanied by a written description of the proposed development and of the materials to be used and a plan indicating the site together with any fee required to be paid;
 - (iii) the development shall not be begun before the occurrence of one of the following—
 - (aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
 - (bb) where the local planning authority give the applicant notice within 28 days following the date of receiving his application of their determination that such prior approval is required, the giving of such approval; or
 - (cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;
 - (iv) (aa) where the local planning authority give the applicant notice that such prior approval is required the applicant shall display a site notice by site display on or near the land on which the proposed development is to be carried out, leaving the notice in position for not less than 21 days in the period of 28 days from the date on which the local planning authority gave the notice to the applicant;
 - (bb) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in sub-paragraph (aa) has elapsed, he shall be treated as having complied with the requirements of that sub-paragraph if he has taken reasonable steps for protection of the notice and, if need be, its replacement;
 - (v) the development shall, except to the extent that the local planning authority otherwise agree in writing, be carried out—
 - (aa) where prior approval is required, in accordance with the details approved;
 - (bb) where prior approval is not required, in accordance with the

- details submitted with the application; and
- (vi) the development shall be carried out—
- (aa) where approval has been given by the local planning authority, within a period of five years from the date on which approval was given;
 - (bb) in any other case, within a period of five years from the date on which the local planning authority were given the information referred to in sub-paragraph (d)(ii).

(3) The conditions in paragraph (2) do not apply to the extension or alteration of a building if the building is not on article 1(6) land except in the case of a significant extension or a significant alteration.

(4) Development consisting of the significant extension or the significant alteration of a building may only be carried out once by virtue of Class A(a).

(5) Where development consists of works for the erection, significant extension or significant alteration of a building and

- (a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within ten years from the date on which the development was substantially completed; and
- (b) planning permission has not been granted on an application, or has not been deemed to be granted under Part III of the Act, for development for purposes other than agriculture, within three years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased,

then, unless the local planning authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

(6) Where an appeal has been made, under the Act, in relation to an application for development described in paragraph 5(b), within the period described in that paragraph, that period shall be extended until the appeal is finally determined or withdrawn.

(7) Where development is permitted by Class A(a), the developer shall notify the local planning authority, in writing and within 7 days, of the date on which the development was substantially completed.

Class B Development on units of less than 5 hectares

Permitted development

B. The carrying out on agricultural land comprised in an agricultural unit of not less than 0.4 but less than 5 hectares in area of development consisting of—

- (a) the extension or alteration of an agricultural building;**
- (b) the installation of additional or replacement plant or machinery;**
- (c) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus;**
- (d) the provision, rearrangement or replacement of a private way;**
- (e) the provision of a hard surface;**
- (f) the deposit of waste; or**
- (g) the carrying out of any of the following operations in connection with fish farming, namely, repairing ponds and raceways; the installation of grading machinery, aeration equipment or flow meters and any associated channel; the dredging of ponds; and the replacement of tanks and nets,**

where the development is reasonably necessary for the purposes of agriculture within the unit.

Development not permitted

B.1 Development is not permitted by Class B if—

- (a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 0.4 hectare in area;
- (b) the external appearance of the premises would be materially affected;
- (c) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;
- (d) it would consist of, or involve, the carrying out of any works to a building or structure used or to be used for the accommodation of livestock or the storage of slurry or sewage sludge where the building or structure is within 400 metres of the curtilage of a protected building; or
- (e) it would relate to fish farming and would involve the placing or assembly of a tank on land or in any waters or the construction of a pond in which fish may be kept or an increase (otherwise than by the removal of silt) in the size of any tank or pond in which fish may be kept.

B.2 Development is not permitted by Class B(a) if—

- (a) the height of any building would be increased;
- (b) the cubic content of the original building would be increased by more than 10%;
- (c) any part of any new building would be more than 30 metres from the original building;
- (d) the development would involve the extension, alteration or provision of a dwelling;
- (e) any part of the development would be carried out within 5 metres of any boundary of the unit; or
- (f) the ground area of any building extended by virtue of Class B(a) would exceed 465 square metres.

B.3 Development is not permitted by Class B(b) if—

- (a) the height of any additional plant or machinery within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;
- (b) the height of any additional plant or machinery not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;
- (c) the height of any replacement plant or machinery would exceed that of the plant or machinery being replaced; or
- (d) the area to be covered by the development would exceed 465 square metres calculated as described in paragraph D.2 below.

B.4 Development is not permitted by Class B(e) if the area to be covered by the development would exceed 465 square metres calculated as described in paragraph D.2 below.

Conditions

B.5 Development permitted by Class B and carried out within 400 metres of the curtilage of a protected building is subject to the condition that any building which is extended or altered, or any works resulting from the development, shall not be used for the accommodation of livestock except in the circumstances described in paragraph D.3 below or for the storage of slurry or sewage sludge.

B.6 Development consisting of the extension or alteration of a building situated on article 1(6) land or the provision, rearrangement or replacement of a private way on such land is permitted subject to—

- (a) the condition that the developer shall, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority

will be required to the siting, design and external appearance of the building as extended or altered or the siting and means of construction of the private way; and
(b) the conditions set out in paragraphs A.2(2)(ii) to (vi) above.

B.7 Development is permitted by Class B(f) subject to the following conditions—
(a) that waste materials are not brought on to the land from elsewhere for deposit unless they are for use in works described in Class B(a), (d) or (e) and are incorporated forthwith into the building or works in question; and
(b) that the height of the surface of the land will not be materially increased by the deposit.

B.8 Development is permitted by Class B(a) subject to the following conditions—
(a) Where development consists of works for the significant alteration of a building and
(i) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within ten years from the date on which the development was substantially completed; and
(ii) planning permission has not been granted on an application, or has not been deemed to be granted under Part III of the Act, for development for purposes other than agriculture, within three years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased,

then, unless the local planning authority have otherwise agreed in writing, the extension, in the case of development consisting of an extension, shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

(b) Where an appeal has been made, under the Act, in relation to an application for development described in paragraph B.8(a)(ii), within the period described in that paragraph, that period shall be extended until the appeal is finally determined or withdrawn.

(c) The developer shall notify the local planning authority in writing and within 7 days, of the date on which the development was substantially completed.

Class C Mineral working for agricultural purposes

Permitted development

C. The winning and working on land held or occupied with land used for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.

Development not permitted

C.1 Development is not permitted by Class C if any excavation would be made within 25 metres of a metalled part of a trunk road or classified road.

Condition

C.2 Development is permitted by Class C subject to the condition that no mineral extracted during the course of the operation shall be moved to any place outside the land from which it was extracted, except to land which is held or occupied with that land and is used for the purposes of agriculture.

Interpretation of Part 6

D.1 For the purposes of Part 6—

"agricultural land" means land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden;

"agricultural unit" means agricultural land which is occupied as a unit for the purposes of agriculture, including—

- (a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or
- (b) any dwelling on that land occupied by a farmworker;

"building" does not include anything resulting from engineering operations;

"fish farming" means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean and mollusc);

"livestock" includes fish or shellfish which are farmed;

"protected building" means any permanent building which is normally occupied by people or would be so occupied, if it were in use for purposes for which it is apt; but does not include—

- (i) a building within the agricultural unit; or
- (ii) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture;

"significant extension" and "significant alteration" mean any extension or alteration of the building where the cubic content of the original building would be exceeded by more than 10% or the height of the building as extended or altered would exceed the height of the original building;

"slurry" means animal faeces and urine (whether or not water has been added for handling); and

"tank" includes any cage and any other structure for use in fish farming.

D.2 For the purposes of Part 6—

- (a) an area calculated as described in this paragraph comprises the ground area which would be covered by the proposed development, together with the ground area of any building (other than a dwelling), or any structure, works, plant, machinery, ponds or tanks within the same unit which are being provided or have been provided within the preceding two years and any part of which would be within 90 metres of the proposed development;
- (b) 400 metres is to be measured along the ground.

D.3 The circumstances referred to in paragraphs A.2(1)(a) and B.5 are—

- (a) that no other suitable building or structure, 400 metres or more from the curtilage of a protected building, is available to accommodate the livestock; and
- (b)
 - (i) that the need to accommodate the livestock arises from—
 - (aa) quarantine requirements; or
 - (bb) an emergency due to another building or structure in which the livestock could otherwise be accommodated being unavailable because it has been damaged or destroyed by fire, flood or storm; or
 - (ii) in the case of animals normally kept out of doors, they require temporary accommodation in a building or other structure—
 - (aa) because they are sick or giving birth or newly born; or
 - (bb) to provide shelter against extreme weather conditions.

D.4 For the purposes of paragraph A.2(2)(c), the relevant area is the area of the proposed

excavation or the area on which it is proposed to deposit waste together with the aggregate of the areas of all other excavations within the unit which have not been filled and of all other parts of the unit on or under which waste has been deposited and has not been removed.

D.5 In paragraph A.2(2)(iv), "site notice" means a notice containing—

- (a) the name of the applicant,
 - (b) the address or location of the proposed development,
 - (c) a description of the proposed development and of the materials to be used,
 - (d) a statement that the prior approval of the authority will be required to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be,
 - (e) the name and address of the local planning authority,
- and which is signed and dated by or on behalf of the applicant.

D.6 For the purposes of Class B—

- (a) the erection of any additional building within the curtilage of another building is to be treated as the extension of that building and the additional building is not to be treated as an original building;
- (b) where two or more original buildings are within the same curtilage and are used for the same undertaking they are to be treated as a single original building in making any measurement in connection with the extension or alteration of either of them.

D.7 In Class C, "the purposes of agriculture" includes fertilising land used for the purposes of agriculture and the maintenance, improvement or alteration of any buildings, structures or works occupied or used for such purposes on land so used.

Screening for Equality Impact Assessment

1. Title of proposed Consultation

Planning Permitted Development Rights for Agricultural Buildings and Operations - Proposed Amendment

2. Brief summary of the scope of the proposal

The paper details the proposed consideration of an amendment to Part 6 of Schedule 1 to the Planning (General Development) Order (NI) 1993 to facilitate compliance with the action programme for implementation of the Nitrates Directive. The issues under consideration are –

- a. whether the existing Part 6 Class A of the GDO should be amended to increase the 300 m² ground area limit for agricultural buildings.
- b. if your answer to a. is 'Yes', what increase should be applied.
- c. whether further changes to Part 6 following the review of PD rights should be postponed until the 'Nitrates' applications are dealt with, whether the ground area limitation is increased or not?

3. Aim of the Consultation

To determine the planning controls that will apply to the development of slurry storage facilities needed to comply with the requirements of the Nitrates Directive.

4. Screening Analysis

All public authorities, in carrying out their functions relating to Northern Ireland, are required under Section 75 of the Northern Ireland Act 1998 to identify those policies which are likely to have the greatest impact on equality of opportunity and community relations. This is assessed against the nine categories listed below:

- (1) Persons of different religious beliefs
- (2) Persons of different political opinions
- (3) Persons of different racial groups
- (4) Persons of different ages
- (5) Persons of different marital status
- (6) Persons of different sexual orientation

- (7) Men and women generally
- (8) Persons with a disability and persons without
- (9) Persons with dependants and persons without

- 4.1 Is there any evidence of higher or lower participation or uptake by different groups within any of the nine categories?
NO
- 4.2 Is there any evidence that particular groups have different needs, experiences, issues and priorities in relation to the proposal?
NO
- 4.3 Is there an opportunity to better promote equality of opportunity or good relations by altering the proposal or by otherwise working with others in Government or the community at large?
NO
- 4.4 Have consultations in the past with relevant groups, organisations or individuals indicated that this proposal could create problems, which are specific to them?
NO

5. Impact Assessment Decision

- 5.1 Full impact assessment procedure is confined to those policies considered likely to have significant implications for equality of opportunity and community relations.
- 5.2 Taking account of the Screening Analysis in Section 2.0, does this proposal need to be submitted to a full equality impact assessment?
NO

6. Reason for Decision

As a result of the screening analysis in Section 4., it is considered that there will be no significant implications for equality of opportunity or community relations as a result of the introduction of this policy.

Rural Proofing

1. Rural Proofing is a process to ensure that all relevant Government policies are examined carefully and objectively to determine whether or not they have a different impact in rural areas from that elsewhere, because of the particular characteristics of rural areas; and where necessary, what policy adjustments might be made to reflect rural needs and in particular to ensure that, as far as possible, public services are accessible on a fair basis to the rural community.
2. This paper seeks views on a possible change to planning permitted development rights to facilitate the agricultural industry in complying with the requirements of the Nitrates Directive. The positive and negative impacts of compliance with the Directive on the rural community have been described in Annex C of the consultation paper on the action programme to implement the Directive⁶. The form of the planning controls that will apply to the development of slurry storage facilities needed to comply with the requirements of the Nitrates Directive will not affect the positive impacts of the Directive unless they were to prevent compliance with the Directive by the implementation date. The Planning Service does not expect such an event as it is committed to processing all Nitrates applications, regardless of how many, within the appropriate time.
3. The impact of the possible change in PD rights upon the farming community would be positive in that it would remove the need for an estimated 800 farmers to apply for planning permission for new slurry storage facilities. This benefit includes not having to pay planning fees and not expending resources upon the planning application process. However, the rural community is wider than the farming community. The main considerations that will be applied by the Planning Service when processing Nitrates applications will relate to siting, design and appearance of the new slurry storage facilities. Inappropriate siting etc. has the potential to impact adversely upon residential properties outside but adjacent to the agricultural unit and upon visual amenity. It might be said that some of the conditions in the current Part 6 of the GDO address these issues. However, the review of PD rights was critical of Part 6 and made a number of relevant recommendations which this paper proposes to postpone for at least 18 months. The shortcomings of Part 6 identified by the review may be exacerbated by any increase in the size of buildings permitted.
4. More widely the review of PD rights noted that in a number of parts of the GDO, including Part 6, PD rights are not currently modified in

⁶ Proposed Action Programme Measures for the Protection of Northern Ireland's Waters - February 2005

sensitive areas such as Areas of Special Scientific Interest, sites of archaeological interest and Areas of Outstanding Natural Beauty. An enhancement of PD rights for the Nitrates Directive and the postponement of possible changes to Part 6 following the review has the potential to impact adversely upon these sensitive areas where most of the rural community reside.

Consultee List

Name	Organisation
Mr G Adams MP MLA	c/o Sinn Fein HQ
Dr A McDonnell MP MLA	SDLP
Mr S Wilson MP MLA	Democratic Unionist Party
Mr G Campbell MP MLA	Democratic Unionist Party
Mr N Dodds MP MLA	Democratic Unionist Party
Mr P Doherty MP MLA	Sinn Fein
Mr J Donaldson MP MLA	Democratic Unionist Party
Ms M Gildernew MP MLA	Sinn Fein
Lady Sylvia Hermon MP	Ulster Unionist Party
Mr M Durkan MP MLA	SDLP
Mr C Murphy MP MLA	Sinn Fein Office
Mr E McGrady MP	SDLP
Mr M McGuinness MP MLA	Sinn Fein
Rev Dr I R K Paisley MP MLA	Democratic Unionist Party
Mr P D Robinson MP MLA	Democratic Unionist Party
Mrs I Robinson MP MLA	Democratic Unionist Party
Rev W McCrea MP MLA	Democratic Unionist Party
Mr D Simpson MP MLA	Democratic Unionist Party
Mr J Nicholson MEP	Ulster Unionist Party
Mr J Allister MEP	Democratic Unionist Party
Ms B deBrun MEP	Sinn Fein Office
Mr D Lidington MP	Shadow Secretary of State
Mr L Robertson MP	Conservative Party
Mr L Opik MP	Liberal Democrats
Mr A Carmichael MP	Liberal Democrats
Lord Glentoran CBE DL	Conservative Party
Lord Smith of Clifton	Liberal Democrat
Lord Shutt of Greetland	Liberal Democrat
Baroness Farrington of Ribbleton	Labour
Viscount Brookborough	
Lord Alderdice	Liberal Democrat
Lord Eames	
Lord Kilclooney	
Lord Molyneaux of Drumglass	
Lord Maginnis of Drumglass	
Baroness Blood	Labour
Lord Fitt	
Lord Laird	
Lord Rogan	
Lord Steinberg	
Baroness O'Neill	

Lord Rana	
Lord Smith of Clifton	
Lord Cooke	
Lord Ballyedmond	
Business Office (MLAs)	
The Secretary	Alliance Party of Northern Ireland
Mr D Ford MLA	Alliance Party of Northern Ireland
The Secretary	Democratic Unionist Party
The Secretary	Labour Party
Party Leader	Labour Party
The Secretary of NI Area Executive	The Conservative Party
The Secretary	Northern Ireland Womens Coalition
The Secretary	Progressive Unionist Party
Mr D Ervine MLA	Progressive Unionist Party
The Secretary	Sinn Fein
The Secretary	SDLP
The Secretary	The Green Party
Party Leader	The Green Party
The Secretary	The Workers Party
Party Leader	The Workers Party
Director of Policy Development	Ulster Unionist Party
The Chief Executive	Ulster Unionist Party
The Secretary	United Kingdom Unionist Party
Mr R McCartney QC MLA	UK Unionist Party
Dr John Patterson	Clerk to the Committee, N I Affairs Committee
Mr Hugh Farren	Sub Committee Clerk, Northern Ireland Affairs
Librarian	Assembly Library
The Vote Office	House of Commons Library
The Printed Papers Office	House of Lords Library
Librarian	DRD Library
Mr N Jackson, Machinery of Government Division	Office of the First Minister and Deputy First Minister
Central Management Unit	Office of the First Minister & Deputy First Minister
Caroline Evans	Victim's Unit, OFMDFM
	Devolution and Legislation Division
	Belfast Solicitors Association
Information Officer	N I Association of Citizens Advice Bureau
The Secretary	N I Chamber of Commerce and Industry
The Director	Confederation of British Industry, NI Branch CBI
The Secretary	Law Reform Advisory Committee
The Chief Commissioner	Equality Commission for N I

The Northern Ireland Ombudsman	
The Secretary	Human Rights Commission
The Secretary	N I Chamber of Trade
Head of School	School of Law, QUB
The Chairman	The General Consumer Council for N I
The Director General	Northern Ireland Court Service
The Director	The N I Council for Voluntary Action
The Northern Ireland Officer	NIC/ICTU
The Head of School of Law	University of Ulster
The Secretary	The Office of Law Reform
The Secretary	The Law Society of Northern Ireland
The Secretary	Northern Ireland Local Government Association
Honorary Secretary	Society of Local Authority Chief Executives
Clerk and Chief Executive	Each of the 26 City/Borough/District Councils
Chief Environmental Health Officer	Each of the 26 City/Borough/District Councils
Permanent Secretary	Department of Environment
Deputy Secretary	Department of Environment
Mr D Ferguson	Chief Executive (DOE Planning Service)
Mr P McBride	Director of Operations (DOE Planning Service)
Mr P Quinn	Director of Plans & Policy (DOE Planning Service)
Marianne Fleming	Director of Corporate Services (DOE Planning Service)
Chief Executive	DOE Environment and Heritage Service
Director of Built Heritage	DOE Environment and Heritage Service
Director of Environmental Protection	DOE Environment and Heritage Service
Director of Natural Heritage	DOE Environment and Heritage Service
Mr M Thompson, Director	Regional Planning and Transportation Division
Mr G Allister, Director of Engineering	DRD Roads Service
Head of Transportation Unit	DRD Roads Service
Chief Executive	Water Service
Edwin Gallagher	DARD, Central Management Branch
David McCune	DETI Central Management Branch
Neil Magowan	DHSSPSNI, Central Management Branch
Mr Alan Doherty	DRD, Central Management Branch
Billy Crawford	DSD, Central Management Branch
The Director	DSD Belfast Development Office

The Director	DSD North West Development Office
Mr M Millar, Principal Landscape Architect	DFP Construction Service – Landscape Section
Mr P Gunn	DFP Departmental Solicitors Office
Estates Policy	DHSSPS Health Estates
Ms Roisin O'Neill	Human Resources Office, Equality Department
Mr S D Brown	Aerodrome Services, Safety Regulation Group
The Secretary	Council for Nature Conservation and the Countryside
Mr B Graham	DSD Housing Associations Branch
	Fire Authority for Northern Ireland
	Fisheries Conservancy Board for NI
The Secretary	Historic Buildings Council
The Secretary	Historic Monuments Council
Mr Chris Williamson	Northern Ireland Federation of Housing Associations
Director of Professional Services	Northern Ireland Housing Executive
Miss Hazel Bell	RTPI Irish Branch (Northern Section)
Chief Executive	Northern Ireland Tourist Board
Mr John Warke	Planning Appeals Commission
	Rural Development Council for Northern Ireland
Professor A Adair	University of Ulster, School of Built Environment
Mr Dan Holden (Librarian)	Architecture and Planning Info. Service
Professor M McEldowney	Department of Environmental Planning
Chief Executive	Eastern Health and Social Services Board
Chief Executive	Northern Health and Social Services Board
Chief Executive	Southern Health and Social Services Board
Chief Executive	Western Health and Social Services Board
Mr W Francey, Group Chief Environmental Health Officer	Environmental Health Services Department
Group Chief Environmental Health Officer	Eastern Group Public Health Committee
Group Chief Environmental Health Officer	Northern Group Systems (Environmental Health)
Group Chief Environmental Health Officer	Southern Group Public Health Committee
Group Chief Environmental Health Officer	Western Group Environmental Health Committee
Mr P Hillan	Association of Consulting Engineers
Mr Gary McFarlane	Chartered Institute of Environmental

	Health
Mr Stephen Cooper	Chartered Institute of Environmental Health
Ms Wendy Blundell	Institution of Civil Engineers (NI Association)
Mr L Manogue	Institute of Historic Building Conservation
Andrew Bunbury	Landscape Institute N I
Mr D Mackenzie	Royal Town Planning Institute (Irish Branch, Northern Section)
Mr David Rose	Royal Town Planning Institute
Mr William Orbinson	Bar Library
The Development Officer	Bryson House
	Community Technical Aid (NI) Ltd
The Director	Construction Employers Federation
	Countryside Access & Activities Network for NI
Mr N Farris	Environment and Planning Law Association of NI
The Secretary	Friends of the Earth
Mr C McDaid	Lagan Valley Regional Park Officer
The Chairman	Lough Neagh and Lower Bann Management Committees
The Secretary	Mourne Heritage Trust
The Secretary	Mournes Advisory Council
	National Trust
The Secretary	Northern Ireland Amenity Council
	Northern Ireland Environment Link
	NIPSA
The Secretary	Royal Society for Protection of Birds
	Rural Community Network
The Secretary	Strangford Lough Advisory Council
The Secretary	Strangford Lough Management Committee
Mrs P Glenn	Ulster Anglers Association
The Secretary	Ulster Architectural Heritage Society
The Secretary	Ulster Society for the Preservation of the Countryside
The Secretary	Ulster Wildlife Trust
Mr J Orr	Wildfowl and Wetland Trust
The Secretary	Woodland Trust
The Secretary	N I Agricultural Producers Association
The Secretary	Ulster Farmers' Union
	Building Design Partnership
Mr Richard Bowman	Ferguson & McIlveen
Ms T Workman	Kenneth Crothers, Deane & Curry
	Ostick and Williams

Diana Fitzsimons	Robert Turley Associates
Michelle Hill	WDR & RT Taggart
	URPA
Mr David Dewar	Planning Magazine
Mr George Worthington	Pragma Planning
The British Library	Legal Deposit Office
Bodleian Library, Oxford	
University Library, Cambridge	
National Library, Scotland	
National Library of Wales	
Library of Trinity College, Dublin	
Library, Queens University	
Ms Deirdre Wildy	Northern Ireland Publications Resource
	TSO Bibliographic Department
Mr Michael McSorley	Regional Development Office
Mr Sean Convery	FWAG NI
Mr Wilfrid H Crawford	Feedtest
Mr Ian Duff	Institute of Agricultural Engineers
Mr Ken Forbes	Banbridge District Council
Ms Doris Leeman	NI Grain Trade Association
Dr Mike Tempest	Livestock and Meat Commission
Mr Campbell Tweed	Ulster Farmers' Union
Mr Joe Lawson	Northern Ireland Poultry Federation
Mr W P O'Kane	Northern Ireland Poultry Federation
Dr Alex McGarel	WWF NI
Mr Stephen Presho	Agricultural Contractor's Association NI
Ms Jane Salter	Agriculture Industries Confederation
Mr Richard Moore	Northern Ireland Meat Exporters Association
Mr Paul Archer	Northern Ireland Dairy Association
Mr David Dobbin	United Dairy Farmers Ltd
Mr Bill McAllister	NI Bankers Association
Dr John McCallister	Young Farmers Clubs of Ulster
Mr Arthur McKeivitt	Northern Ireland Council National Beef
Mr Geoffrey Troughton	Agricultural Research Institute of NI
Mr Walter Smyth	Agricultural Research Institute of NI
Mr W H Yarr	Agrisearch
Mr Mike Johnston	NI Dairy Council
Mr Ian Murray	Royal Institute of Chartered Surveyors
Ms Aileen Smith	Pig Production Development Committee
Mr Michael Guest	Royal Ulster Agricultural Society
Mr John Hoey	Irish Organic Farmers & Growers Association
Mr Jason Rankin	East Down Positive Farmers Group
	Waste Management Advisory Board NI
SMC Contracts	

McIlderry Holdings	
J D O'Hare	
R Kennedy & Co Ltd	
Richard Fitzpatrick	
A Cairnduff & Sons Ltd	Kiltonga Industrial Estate
Moore Concrete Products	
Future Systems	
Macrete Ireland Ltd	
Cyril Johnston & Co	Farm and Garden Machinery
Creagh Concrete	
Mr Brian Mees	Milbury Systems Ltd
Mr George Steele	Steele Construction Services
N McAreavy	McAreavy Engineering
J R Morrison	ASE Consultancy Service
G F Harvey	ASE Consultancy Service
J F Higgins	
Dr M A McCloskey	
Mr Raymond Thompson	
R Robinson & Sons	
Liam O'Neill	
Ardtara Engineering Services	