Planning and Demolition Control

Proposals for a revised Departmental Direction on Demolition and Development

Permitted Development Rights for the Demolition of Buildings

Consultation Document

February 2012
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INTRODUCTION

This consultation paper sets out the Department of the Environment’s proposals for amending its Departmental Direction on Demolition and Development; and the introduction of permitted development rights for the Demolition of Buildings.

RESPONDING TO THIS CONSULTATION DOCUMENT

How to Respond

You are invited to send your views on this consultation document, the accompanying “draft Departmental Direction on Demolition” and the “draft indicative permitted development rights for the demolition of buildings” attached at Annexes A and B respectively.

Comments should reflect the structure of the documents as far as possible with references to paragraph numbers where relevant.

All responses should be made in writing and submitted to the Department no later than 6th April 2012 in one of the following ways:

1. **By post** to:
   Demolition and Development Consultation
   Planning Policy Division
   Department of Environment
   3rd Floor
   Millennium House
   17- 25 Great Victoria Street
   Belfast
   BT2 7BN

2. **By e-mail** to: demolition.planning@doeni.gov.uk

3. **By fax** (marked “Demolition and Development Consultation response”) to 028 90416960.

In keeping with our policy on openness, the Department will make responses to this consultation paper publicly available. When publishing responses received on behalf of organisations, the Department will also publish the organisation’s name and address. When publishing responses received on behalf of individuals, the Department will not publish details of the individual’s name and address.

We look forward to receiving responses to the proposals and issues raised within this consultation document. Additional copies of the consultation document can be downloaded from the Department’s website at www.planningni.gov.uk or requested via the postal address, e-mail or fax numbers above, or by telephone on 028 9041 6967, or by Text phone on 028
If you have any comments or complaints about the consultation process itself (rather than the content of this document), these should be directed to the postal or e-mail addresses above.

**IMPACT ASSESSMENTS**

Government bodies are required to screen the impact of new policies and legislation against a wide range of criteria, including equality and human rights.

Equality Impact Assessment Screening and a Preliminary Regulatory Impact Assessment have been undertaken and are set out at Annexes C and D to this consultation paper. The Department believes that there would be no differential impact in rural areas or on rural communities.

The Department considers that the proposals laid out in this document are fully compliant with the Human Rights Act 1998.

The Department welcomes views and comments on whether the conclusions contained in the above assessments are correct.
BACKGROUND

1.1 The Planning (Amendment) (Northern Ireland) Order 2003 amended Article 11 of the Planning (Northern Ireland) Order 1991 ("the 1991 Order") to bring demolition of buildings within the meaning of development for planning purposes.

1.2 Demolition control through the planning regime is achieved by specifying in a Departmental Direction made under Article 11(2)(f) of the 1991 Order, those buildings whose demolition will or will not come within the meaning of development.

1.3 To avoid overburdening the planning system with applications for the demolition of relatively insignificant structures it was decided that planning control over demolition would be targeted at buildings in Areas of Townscape/Village Character (ATCs). This is additional to the demolition control already exercised over buildings in Conservation Areas, Listed Buildings and Historic Monuments through the requirement for separate Conservation Area, Listed Building and Historic Monument consent.

1.4 Therefore up until now the demolition of buildings outside ATCs has been taken, for the purposes of the Direction, not to involve development.

1.5 The need to amend the Direction arises from the ruling of the Court of Justice of the European Union in the case Commission v Ireland (C-50/09) which concluded that demolition of certain buildings is capable of constituting a project for the purpose of the Environmental Impact Assessment Directive. This ruling was also referred to in the decision of the Court of Appeal in the Queen (on the application of Save Britain’s Heritage) –v- Secretary of State for Communities and Local Government and Lancaster City Council and Mitchells of Lancaster. In the Mitchells of Lancaster case the English Court of Appeal held that it was contrary to European law that works for the demolition of buildings capable of constituting a project falling within Annex II of Council Directive 85/337/EC (the EIA Directive) could be determined by government direction not to be development. The effect of this in England has been to quash the Secretary of State for Communities’ Direction on Demolition to extend the requirement for planning permission to all works for demolition of buildings, other than buildings of less than 50 cubic metres and gates, walls, fences and other means of enclosure.

1.6 As applied to the planning regime it means that the demolition of buildings must be development requiring planning permission where works for the demolition of buildings engages EIA.
PROPOSED AMENDMENTS TO THE DEPARTMENTAL DIRECTION ON DEMOLITION AND DEVELOPMENT

2.1 In order to comply with the requirements of the EIA Directive it is proposed that the Department's Direction on Demolition be amended so that the demolition of all buildings (except for relatively minor buildings which do not exceed 115 cubic metres, and gates, walls, fences and other means of enclosure) will be regarded as development requiring planning permission.

2.2 Where a gate, fence, wall or other means of enclosure over 1 metre in height adjacent to a road or 2 metres elsewhere is intended to be demolished within an ATC, such works will continue to be development requiring express planning permission.

2.3 An ATC is defined as an area designated as such in a development plan prepared under Part III of the Planning (Northern Ireland) Order 1991, in a draft of such a plan or listed in the Schedule attached to the Direction (which covers older ATCs designated outside the development plan process).

2.4 A proposed revised Departmental Direction is set out in Annex A. Views and comments on the revised Direction are invited.

PROPOSED AMENDMENTS TO THE PLANNING (GENERAL DEVELOPMENT) ORDER 1993 (“THE GDO”)

3.1 To ensure that the planning system is not overburdened with unnecessary planning applications for the demolition of relatively insignificant buildings and at the same time maintain planning controls over the demolition of buildings within ATCs, the Department plans to introduce permitted development rights for the demolition of buildings, subject to specified limitations. This will be achieved through an amendment to the Planning (General Development) Order (Northern Ireland) 1993. The GDO will therefore grant planning permission for the category of demolition development described in Annex B (Class A).

3.2 The demolition of buildings in Areas of Townscape or Village Character will, with limited exceptions for demolition provided for under Housing legislation, continue to require planning permission on foot of a planning application.

3.3 It should be noted however that certain development proposals are regarded as “EIA development”; that is development that falls within a description set out in Schedule 1 to the Environmental Impact Assessment Regulations or that falls within Schedule 2 and is likely to have significant effects on the environment.
3.4 Permitted development rights do not apply to EIA development (Article 3(8) of the GDO refers) and in these circumstances the developer will be required to submit a planning application and an accompanying Environmental Statement.

3.5 Where a development proposal is listed in Schedule 2 to the EIA Regulations and meets or exceeds the related thresholds or is in a sensitive area as defined by those Regulations, then permitted development rights do not apply unless a screening determination has been made by the Department that the proposal does not constitute EIA development. Demolition projects can come under Schedule 2.10(b) (urban development projects) to the EIA Regulations and developers will need to be aware of the requirements of these Regulations and must seek a determination, where necessary.

3.6 Where developers are seeking planning permission for the redevelopment of a site, they will be expected to include the demolition aspect in the application, particularly where EIA may be involved. That way the resulting EIA considerations and planning permission will cover any demolition involved.

3.7 Although the demolition of Listed Buildings and buildings in Conservation Areas will continue to require consent under their respective control regimes, where the demolition of such a building is determined to be EIA development, a planning application along with an accompanying Environmental Statement will also be required.

3.8 Indicative permitted development rights for the demolition of buildings is set out in Annex B. Views and comments on the proposed new permitted development rights are invited.
ANNEX A – Draft revised Departmental Direction on Demolition

PLANNING (NORTHERN IRELAND) ORDER 1991
PLANNING (DEMOLITION – DESCRIPTION OF BUILDINGS)
DIRECTION 2012

The Department of the Environment for Northern Ireland, in exercise of the powers conferred on it by Article 11(2)(f) of the Planning (Northern Ireland) Order 1991\(^a\) hereby directs:

1. The demolition of any building to which paragraph 2 applies shall not be taken for the purposes of the Planning (Northern Ireland) Order 1991 to involve development of land.

2. This paragraph applies to -

(a) a building the cubic content of which, measured externally, does not exceed 115 cubic metres;

(b) subject to paragraph (c) the whole or any part of a gate, fence, wall or other means of enclosure;

(c) in the case of an area of townscape character or an area of village character, the whole or any part of a gate, wall, fence or other means of enclosure which –
   (i) is adjacent to a road or open public space and is less than 1 metre high,
   (ii) in any other case is less than 2 metres high.

3. In this direction -

“area of townscape character” means an area -
(a) designated as such in a development plan prepared under Part III of the Planning (Northern Ireland) Order 1991 or in a draft of such a plan; or
(b) listed in the Schedule attached to this Direction;

“area of village character” means an area designated as such in a development plan prepared under Part III of the Planning (Northern Ireland) Order 1991 or in a draft of such a plan;

“road” has the same meaning as in the Roads (NI) Order 1993\(^b\).

---
\(^a\) 1991/1220 (N.I.11) as amended by S.I. 2003/430 (N.I.8)
\(^b\) 1993/3160 (N.I. 15)
Schedule

*Belfast City Council Area*

Cherryvalley Area of Townscape Character  
Circular Road Area of Townscape Character  
Cliftonville Area of Townscape Character  
Donegall Park Avenue Area of Townscape Character  
Hampton Park Area of Townscape Character  
Holyland Area of Townscape Character  
North/South Parade and Park Road Area of Townscape Character  
Rosetta Area of Townscape Character  
Rugby Road Area of Townscape Character  
Sunningdale Area of Townscape Character  
Twaddell Area of Townscape Character  
Wandsworth Area of Townscape Character

*Ballymena District Council Area*

Galgorm Road and Old Galgorm Road Area of Townscape Character

*Castlereagh Borough Council Area*

Cregagh Area of Townscape Character  
Thiepval Area of Townscape Character

*Newtownabbey Borough Council Area*

Hazelbank/Abbeylands Area of Townscape Character  
Lenamore (Extension) Area of Townscape Character

*North Down Borough Council*

Bangor Bay (Princetown Road and Seacliff Road/Clifton Road) Area of Townscape Character
EXPLANATORY NOTE

(This Note is not part of the Direction)

This Direction is made under Article 11(2)(f) of the Planning (Northern Ireland) Order 1991 (the 1991 Order).

Article 11(1A) of the 1991 Order provides that demolition of all buildings constitutes building operations, is therefore development and thus subject to planning control.

This Direction describes buildings the demolition of which is not to be taken as development (paragraph 2).

Anyone wishing to identify the geographical position and extent of areas of townscape or village character designated by a development plan; in a draft development plan or referred to in the Schedule to this Direction should consult the relevant maps held at their local Area Planning Office. These maps are available for inspection on request during normal office hours.
PART XX
DEMOLITION OF BUILDINGS

Class A

Permitted development
A. Any building operation consisting of the demolition of a building.

Development not permitted
A.1 Development is not permitted by Class A if the building is in an area of townscape character or an area of village character except any such building -

(a) the demolition of which is required or permitted to be carried out under Article 35 or Article 63 of the Housing (NI) Order 1981; or
(b) included in a vesting order under Article 48 or 87 of the Housing (NI) Order 1981

(Interpretation of Class A)
A.2 For the purposes of Class A-

"area of townscape character" means -
(a) an area designated as such in a development plan prepared under Part III of the 1991 Order or in a draft of such a plan, or
(b) any other area described as such in a direction under Article 11(2)(f) of that Order;

"area of village character" means an area designated as such in a development plan prepared under Part III of the 1991 Order or a draft of such a plan.

a S.I. 1981/156 (N.I.3) as amended by S.I. 2003/412(N.I.2)
b The Planning (Demolition – Description of Buildings) Direction 2012 was made under Article 11(2)(f) of the 1991 Order
ANNEX C

DOE SECTION 75 EQUALITY OF OPPORTUNITY SCREENING ANALYSIS FORM

Section 1

Introduction

This form is intended to help you to consider whether a new policy (either internal or external) or legislation will require a full equality impact assessment (EQIA). Those policies identified as having significant implications for equality of opportunity must be subject to full EQIA.

The form will provide a record of the factors taken into account if a policy is screened out, or excluded for EQIA. It will provide a basis for consultation on the outcome of the screening exercise and will be referenced in the Annual Report to the Equality Commission. Copies of completed forms should be retained on file within business areas (and a copy sent to the Equality Team) and reference should be made to the outcome of the screening exercise and subsequent consultation in any submission made to the Minister.

Background

The Legal Background

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The main groups within each of the nine categories, highlighted above, are identified at Appendix 1.

In addition, without prejudice to its obligations above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

Advice on Completion of the Screening Form

It is important that the screening form is completed carefully and thoughtfully. Your Divisional or Agency Equality Officer and the Department’s Equality Team, 8th Floor, Goodwood House (ext 37060/37061) will be happy to assist with all aspects of the screening process and will help with the completion of the form, if required.
Further advice on the screening process can be accessed at Section 4 of the Equality Commission’s Guide to the Statutory Duties.

**Policies included for EQIA**

If, after screening, it is decided that a policy will require a full EQIA, a decision will be required on the priority and timing of the assessment. The screening form should be noted accordingly, signed off and copied to the Equality Team for inclusion in the EQIA programme.

**Policies excluded for EQIA**

If a decision is taken to screen out the policy or where there is ambiguity about the equality implication of the proposal, the screening form should be signed off by a senior officer responsible for the policy and a copy sent to the Equality Team who will ensure that copies of all screening out forms are placed on the Department’s website.

**Section 2 – Policy to be Screened**

**Definition of Policy**

There have been some difficulties in defining what constitutes a policy in the context of Section 75. To be on the safe side it is recommended that you consider changes to or any new initiatives, proposals, schemes or programmes as policies. The policies covered in the Equality Scheme EQIA programme are a reasonable guide both to the nature of external departmental policies and the level at which they should be considered.

The revised Guidance from The Equality Commission emphasises that the Statutory duties apply to **internal** policies (relating to people who work for the organisation) as well as **external** policies (relating to those who are, or could be, served by the organisations).

It is important to remember that even if a full EQIA has been carried out in respect of an “overarching” policy or strategy, it will still be necessary for the policy maker to consider if a further EQIA needs to be carried out in respect of those policies cascading from the overarching strategy.

**OFMDFM Guidance on Legislative Procedures (Primary and Subordinate) sets out clearly the stages at which equality of opportunity considerations should be taken into consideration in the development of legislation.**

**Overview of Policy Proposals**

The aims and objectives of the policy must be clear and well defined. You must take into account any available data or evidence that will enable you to come to a decision on whether or not a policy may or may not have a differential impact on any of the S75 categories. Evidence may be qualitative and or quantitative and may include research or internal information and or experience in relation to service and customer
monitoring exercises. Where appropriate, arrangements should be made to obtain any data necessary to assist screening. The Equality Team or Analytical Services Branch (ASB) (Michael Bennett ext 40916) are available to provide advice on data requirements.

2.1 Please insert below a brief description of the policy/legislation, including the title and all the main aims and objectives

Title


2. Permitted development rights for the demolition of buildings to be inserted into an amendment to the Planning (General Development) Order (Northern Ireland) 1993.

Aims

To update the current planning controls over the demolition of buildings to reflect recent case law.

It is essential that all the aims/objectives of the policy be clearly and fully defined.

2.2 On whom will the policies/legislation impact? Please specify

The policies and legislation will impact on developers who wish to undertake works for the demolition of buildings to which the requirements of Environmental Impact Assessment apply. However, permitted development rights will apply to a substantial proportion of demolition works which do not fall within the requirement for EIA.

2.3 Who is responsible for (a) devising and (b) delivering the policy, eg is it DOE, a Whitehall Department or EU? What is the relationship and have they considered this issue and any equality issues?

(a)

The policy for planning control over the demolition of buildings is a long standing one. The requirement to comply with the EIA Directive originated with the European Union and is delivered via the transposition of Directive 85/337/EEC as amended by 97/11/EC and 2003/35/EC in each Member State. In NI this process is undertaken by the Department of the Environment.

(b)

The proposed amendments comply with the implementing of recent court judgments on EIA and the demolition of buildings.

(c)

The Department of the Environment is responsible for granting planning permission having complied with the requirements of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999.
2.4 What linkages are there to other NI Departments/Public Authorities/NDPBs in relation to this policy/legislation?

The Department for Social Development is responsible for legislation covering the requirement or permission for demolition of certain buildings through relevant Housing legislation. The Northern Ireland Housing Executive has appropriate powers to require or undertake demolition under that legislation.

2.5 What data are available to facilitate the screening of this policy/legislation?

None. The requirement to submit a planning application and to prepare an Environmental Statement is imposed on developers proposing projects that will have a significant effect on the environment. Section 75 groups will have an equal opportunity to comment on proposed projects. Permitted development rights for the demolition of buildings will be available to all developers.

2.6 Is additional data required to facilitate screening? If so, give details of how and when it will be obtained.

No. The requirement for Environmental Impact Assessment applies equally to all section 75 groups should they become involved in projects requiring an Environmental Assessment or wish to comment on a proposed project.

See Appendix 4 of the Equality Commission Practical Guidance on EQIA which provides a list of Sources of S75 data or speak to Analytical Services Branch (ASB) (Michael Bennett, ext 40916) or the Equality Team (Laura McAleese, ext 37060).
Section 3 – Screening Analysis

In cases where there is no available quantitative evidence, you will need to take a pragmatic, common sense judgement as to whether the policy/legislation you are screening may have a particular/differential impact on any of the groups. Discussions with the Equality Team, Analytical Services Branch (ASB) and organisations representing the Section 75 Groups will be important and helpful at this stage in obtaining qualitative evidence of impacts. Every effort should be made to ensure that assessments are evidence based.

The following criteria must be considered when screening.

3.1  **Is there any indication or evidence of higher or lower participation or uptake by the following Section 75 groups?**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious belief</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Political opinion</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Racial group</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Marital status</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Sexual orientation</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Disability</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Dependents</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

**Please give details**
All Section 75 groups are equally required to comply with the Departmental Direction on Demolition and Development; and the EIA regulations if they submit planning applications which require Environmental Impact Assessment (EIA). All section 75 groups will be able to avail of permitted development rights for the demolition of buildings subject to the relevant limitations and conditions.

3.2  **Is there any indication or evidence that any of the following Section 75 groups have different needs, experiences, issues and priorities in relation to this policy issue?**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious belief</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Political opinion</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Racial group</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Marital status</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
3.3 Have consultations with the relevant representative organisations or individuals within any of the Section 75 categories, indicated that policies of this type create problems specific to them?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious belief</td>
<td>X</td>
</tr>
<tr>
<td>Political opinion</td>
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<tr>
<td>Racial group</td>
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<tr>
<td>Age</td>
<td>X</td>
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<tr>
<td>Marital status</td>
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</tr>
<tr>
<td>Sexual orientation</td>
<td>X</td>
</tr>
<tr>
<td>Gender</td>
<td>X</td>
</tr>
<tr>
<td>Disability</td>
<td>X</td>
</tr>
<tr>
<td>Dependants</td>
<td>X</td>
</tr>
</tbody>
</table>

Please give details of any consultations carried out, and any problems identified.

There have been no consultations with specific Section 75 groups. This draft legislation is being subjected to a general public consultation which will provide an opportunity for Section 75 groups to identify differential impacts (if any). In the absence of any quantitative evidence the Department’s view as informed by its understanding of the policy issues and subject matter, is that there will be no differential impact on any of the Section 75 groups.

3.4 Is there an opportunity to better promote equality of opportunity or community relations by altering the policy, or by working with others, in Government, or in the larger community in the context of this policy?

No

Equal opportunities already exist for all groups within the scope of the Departmental Direction on Demolition, permitted development rights and the EIA regulations. They are not related in any way to community relations.

3.5 It may be that a policy/legislation has a differential impact on a certain Section 75 group, as the policy has been developed to address an existing
or historical inequality or disadvantage. If this is the case, please give
details below:

Not applicable.

3.6 Please consider if there is any way of adapting the policy to promote
better equality of opportunity or good relations.

Please give details

The Department believes that the requirements for planning permission
for the demolition of buildings and, where necessary, Environmental
Impact Assessment already apply equally to all Section 75 groups and
that there is therefore no need for changes that would promote better
equality of opportunity or good relations.

3.7 In relation to Departmental obligations under Section 49A of the
Disability Discrimination Act 1995 (DDA) (as amended by the Disability
 Discrimination (Northern Ireland) Order 2006), please consider if there is
any way of adapting the policy to show due regard to the need to promote
positive attitudes towards disabled people and/or encourage participation
by disabled people in public life.

Please give details

Not applicable
Section 4

EQIA Recommendation

You should consider carefully in this section whether full EQIA is necessary, particularly where answers to any questions in Section 3 are affirmative.

4.1 Full EQIA procedures should be carried out on policies considered to have significant implications for equality of opportunity. Please fill in the following grid in relation to the policy/legislation.

<table>
<thead>
<tr>
<th>Prioritisation Factors</th>
<th>Significant Impact</th>
<th>Moderate Impact</th>
<th>Low Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Need.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Effect on people’s daily lives.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Effect on economic, social and human rights.</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Strategic significance</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Financial significance</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Please give details

The legislative amendments relate to changes to existing statutory procedures and are designed to ensure compliance with the EIA Directive. Negligible impact is anticipated on the categories outlined above.

4.2 In view of the considerations in Section 3 and 4 do you consider that this policy/legislation should be subject to a full EQIA? Please give reasons for your considerations. If you are unsure, please consult with affected groups and revisit the screening analysis accordingly. No

There is no evidence to suggest that the introduction of this legislation will have a differential impact on any Section 75 group. Therefore it is not considered necessary to subject this legislation to a full EQIA.
4.3 If an EQIA is considered necessary please comment on the priority and timing in light of the factors in table 4.1.

Not applicable.

4.4 If an EQIA is considered necessary is any data required to carry it out/ensure effective monitoring?

Please give details

Not applicable

Section 5

Endorsement

I can confirm that the proposed policy has been screened for equality of opportunity and good relations implications and has been screened out for equality impact assessment/requires a full equality impact assessment.

Signed: Lois Jackson

Agency/Division: Planning Policy Division

Date: 23 January 2012

PLEASE FORWARD A COPY OF THE COMPLETED FORM TO:

DOE EQUALITY TEAM
8th FLOOR
GOODWOOD HOUSE

44-58 MAY STREET
BELFAST
BT1 4NN

QUERIES TO: LAURA McALEEESE, EXT 37060
laura.mcaleese@doeni.gov.uk
Section 6

For Completion by the Equality Team

Date

Screening result recorded: _________________

Placed on website: _________________

Screening out completed: _________________

Screening to be reconsidered: _________________

Give reasons:

_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________

Agency/Division notified date: _________________
<table>
<thead>
<tr>
<th>Category</th>
<th>Main Groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious belief</td>
<td>Protestants; Catholics; people of non-Christian faiths; people of no religious belief</td>
</tr>
<tr>
<td>Political opinion</td>
<td>Unionists generally; Nationalists generally; members/supporters of any political party</td>
</tr>
<tr>
<td>Racial Group</td>
<td>White people; Chinese; Irish Travellers; Indians; Pakistanis; Bangladeshis; Black Africans; Black Caribbean people; people with mixed ethnic group</td>
</tr>
<tr>
<td>Gender</td>
<td>Men (including boys); women (including girls); trans-gendered people</td>
</tr>
<tr>
<td>Marital status</td>
<td>Married people; unmarried people; divorced or separated people; widowed people</td>
</tr>
<tr>
<td>Age</td>
<td>For most purposes, the main categories are: children under 18, people aged between 18-65, and people over 65. However, the definition of age groups will need to be sensitive to the policy under consideration</td>
</tr>
<tr>
<td>“Persons with a disability”</td>
<td>Disability is defined as: A physical or mental impairment, which has a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities as defined in Sections 1 and 2 and Schedules 1 and 2 of the Disability Discrimination Act 1995</td>
</tr>
<tr>
<td>“Persons with dependants”</td>
<td>Persons with personal responsibility for the care of a child; persons with personal responsibility for the care of a person with an incapacitating disability; persons with personal responsibility for the care of a dependant elderly person</td>
</tr>
<tr>
<td>Sexual orientation</td>
<td>Heterosexuals; bi-sexuals; gays; lesbians</td>
</tr>
</tbody>
</table>
ANNEX D

Preliminary Regulatory Impact Assessment

1. Title of Proposal

(b) The Planning (General Development) (Amendment) Order (Northern Ireland) 2012– (permitted development rights for the demolition of buildings).

2. Purpose and Intended Effect

(i) The Objective

The objective is to update the arrangements for planning permission for the demolition of buildings to ensure that they comply with the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 (“the EIA Regulations”) to reflect recent EIA case-law.

(ii) The Background

The proposed changes follow the ruling from the Court of Justice of the European Union in the case of the Commission v Ireland (C-50/09), that concluded that demolition of certain buildings is capable of constituting EIA development.

Key changes being proposed are:

• **Revision of the Department’s Direction on Demolition of Buildings and Development**: To significantly increase the categories of demolition to be regarded as constituting development.

• **Introduction of new permitted development rights for demolition of buildings**: To ensure that non-EIA demolition development which occurs outside areas of townscape or village character does not generally require permission on foot of a planning application.

(iii) Risk Assessment

If the UK does not legislate to take account of the court ruling it may be subject to infraction proceedings by the European Union (EU) with the possibility of subsequent heavy fines for non-compliance.

3. Options

Option 1: Do Nothing
This is not a realistic option. Failure to take account of recent case law could result in infraction proceedings by the EU and ultimately by the European Court of Justice which could result in financial penalties on the UK.

**Option 2: Amend the Direction without the introduction of permitted development rights for the demolition of buildings.**

This is not a feasible option given that it would have the effect of increasing the regulatory burden on the planning system by requiring planning applications for proposals for the demolition of relatively insignificant buildings.

**Option 3: Amend Direction and introduce Permitted development rights for the demolition of buildings.**

This is the preferred option because it will make the necessary changes to take into account recent court judgments to ensure the EIA Directive is properly transposed with the lightest possible regulatory touch.

4. Costs & Benefits

**Option 1: Do Nothing**

There are no benefits to this option. Costs would be substantial as failure to amend planning legislation may result in infraction proceedings and subsequent heavy fines by the EU for non-compliance.

**Option 2: Amend Direction without permitted development rights**

This would add to the regulatory burden on developers and the planning authority by requiring the submission and processing of planning applications for demolition works to buildings of relatively minor significance.

**Option 3: Amend Direction and introduce permitted development rights for the demolition of buildings.**

The preferred option. Making the necessary amendments will avoid EU-based legal challenges. Permitted development rights will enable time savings for applicants and the Department as there would be fewer planning applications than otherwise to complete and process. Although the proposed amendment could result in a small increase in the number of screening determinations issued by the Department, it is not expected that there would be a significant rise in the number of Environmental Statements produced by developers. Any resulting costs to business should therefore be minimal.

5. Business Sectors Affected

The requirements of the EIA Directive are mainly limited to projects which are likely to have significant effects on the environment. Business sectors
currently involved in such EIA projects are likely to be large scale developers. While these amendments may place some additional procedural and financial requirements on such developers, the Department does not consider there will be any significant costs over and above those of compliance with existing statutory provisions on EIA.

The Department and the Planning Appeals Commission may also face some additional procedural requirements, but the impact is likely to be minimal.

6. Small Firms Impact Test

Impact on small businesses is expected to be minimal as any additional costs will be small and should only occur in a small number of cases. The Department would welcome views from any small businesses, or their representatives, who feel that they may be affected by these proposals.

7. Enforcement and Sanctions

The Department and the PAC will enforce the new arrangements by applying the statutory requirements to planning applications for demolition projects with significant environmental effects.

8. Equality Impact Assessment

An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any additional impact on any of the Section 75 categories.

9. Health Impact

No impact on health has been identified.

10. Human Rights Assessment

The Department considers that the proposed amendments are fully compliant with the Human Rights Act 1998.

11. Monitoring and Review

It should be possible to monitor applications for determinations as to whether projects for the demolition of buildings are considered to be EIA development.

12. Consultation

(i) Within Government

These proposals have been drawn up in discussion with internal Departmental stakeholders, the Department’s legal advisors and with the Department for Social Development.
(ii) Public Consultation

A full public consultation on the policy to deliver option 3 is being initiated and this draft Regulatory Impact Assessment forms part of it.

13. Summary and Recommendation

Option 3 is the recommended option as it is the only option which ensures full compliance with the EIA Directive and the court rulings and at the same time minimises the regulatory burden on the planning system.
ANNEX E

Freedom of Information Act 2000 – Confidentiality of Consultations

1. Please note that the Department may publish responses to this Consultation Document or a summary of responses. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

2. The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does 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. If you do not wish information about your identity to be made public please include an explanation in your response.

3. 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:
   - the Department 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 Department’s functions and it would not otherwise be provided;
   - the Department should not agree to hold information received from third parties ‘in confidence’ which is not confidential in nature; and
   - acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

4. For further information about confidentiality of responses please contact the Information Commissioner’s Office (or see web site at: http://www.informationcommissioner.gov.uk/).
ANNEX F - List of Consultees

20:20 Architects
Age Concern NI
Archbishop Of Armagh & Primate Of All Ireland
Arcus Architects
Arqiva
Atlas Communications
B9 Energy Services Ltd
Bar Library
BB Planning & Design, Lisburn Enterprise Organisation
BBC Engineering Information Department
Belfast Civic Trust
Belfast Harbour Commissioners
Belfast Healthy Cities
Belfast Hills Partnership
Belfast International Airport
Belfast Metropolitan Residents Group
Belfast Solicitors Association
Bishop Of Down And Connor
Brennen Associates
British Telecom (N.I.)
Bryson House
Building Design Partnership
Cable & Wireless
Cabletel (NI) Ltd
Carers Northern Ireland
Catholic Bishops of NI
Chartered Institute of Environmental Health
Chartered Institute of Housing
Chief Executive of the NI Judicial Appointments Commission
Chinese Welfare Association
City of Derry Airport
Civil Law Reform Division
Coleraine Harbour Commissioners
Committee for the Administration of Justice
Communities and Local Government
Community Places
Community Relations Council
Confederation of British Industry, NI Branch
Construction Employers Federation
Council for Catholic Maintained Schools
Council for Nature Conservation and the Countryside
Countryside Access & Activities Network for NI
Courts and Tribunal Services
Crown Castle UK Ltd
Derryhale Residents' Association
Development Planning Partnerships
Disability Action
Enniskillen Aerodrome
Environment and Planning Law Association of NI
Environmental Health Services Department
Equality Commission for NI
Federation of Small Businesses
Ferguson & Mcllveen
Fire Authority for Northern Ireland
Food Standards Agency NI
Forest of Belfast
Friends of the Earth
Geological Survey of Northern Ireland
George Best Belfast City Airport
Gingerbread Northern Ireland
Health And Social Services Boards and Trusts
Help The Aged NI
HM Council of County Court Judges
HM Revenue & Customs
Human Rights Commission
Information Commissioners Office
Institute of Professional Legal Studies
Institute Of Directors
Institute of Historic Building Conservation
Institution of Civil Engineers (NI Association)
International Tree Foundation
Kenneth Crothers, Deane & Curry
Lagan Valley Regional Park Officer
Landscape Institute NI
Larne Harbour Commissioners
Law Centre (NI)
Londonderry Port & Harbour Commissioners
Lord Chief Justice Office
Lough Neagh and Lower Bann Management Committees
LPG Association
Magistrates Court
Marks and Spencer
McClelland/Salter Estate Agents
Mens Action Network
Methodist Church In Ireland
Ministerial Advisory Group for Architecture and the Built Environment in Northern Ireland
Ministry of Defence
Mobile Operators Association
Mono Consultants Limited
Mourne Heritage Trust
Mournes Advisory Council
National Library of Ireland
National Trust
Newtownards Aerodrome
NI Association of Citizens Advice Bureau
NI Chamber of Commerce and Industry
NI Chamber of Trade
NI Quarry Products Association
NI Women's European Platform
NIACRO
NIC/ICTU
NICARE
NICOD
NIPSA
North West Architectural Association
North/South Ministerial Council
Northern Builder
Northern Ireland 2000
Northern Ireland Agricultural Producers Association
Northern Ireland Amenity Council
Northern Ireland Association Engineering Employer's Federation
Northern Ireland Blood Transfusion Service Agency
Northern Ireland Council For Ethnic Minorities
Northern Ireland Council for Integrated Education
Northern Ireland Court Service
Northern Ireland District Councils
Northern Ireland Economic Council
Northern Ireland Education and Library Boards
Northern Ireland Electricity Plc
Northern Ireland Environment Committee
Northern Ireland Environment Link
Northern Ireland Federation of Housing Associations
Northern Ireland Government Departments
Northern Ireland Health Promotion Agency
Northern Ireland Housing Council
Northern Ireland Housing Executive
Northern Ireland Law Commission
Northern Ireland Local Government Association
Northern Ireland Members of the House of Lords
Northern Ireland MP's, MEP's, Political Parties and MLA's
Northern Ireland Publications Resource
Northern Ireland Quarry Owners Association
Northern Ireland Regional Medical Physics Agency
Northern Ireland Residents Coalition
Northern Ireland Tourist Board
NTL Cabletel
O2
OFCOM
Office of Attorney General for Northern Ireland
OFREG
Orange
Ostick and Williams
Participation & the Practice of Rights Project
Participation Network NI
Phoenix Natural Gas Ltd
Planning Appeals Commission
Planning Magazine
Playboard N.I. Ltd
POBAL
Policing Board Of Northern Ireland
Pragma Planning
Presbyterian Church In Ireland
PSNI
Queens University
Renewable UK
RICS NI
Robert Turley Associates
Royal National Institute For Deaf (RNID)
Royal National Institute For The Blind (RNIB)
Royal Society for Protection of Birds
Royal Society of Ulster Architects
Royal Town Planning Institute
Royal Town Planning Institute (Irish Branch, Northern Section)
RPS Group PLC
RTPI Irish Branch (Northern Section)
Rural Community Network
Rural Development Council for Northern Ireland
School of Law
Scottish Government
Society of Local Authority Chief Executives
Southern Waste Management Partnership
Sport NI
Statutory Advisory Councils
Strangford Lough Advisory Council
Strangford Lough Management Committee
Sustrans
The British Library
The Executive Council of the Inn of Court of NI
The General Consumer Council for NI
The Law Society of Northern Ireland
The NI Council for Voluntary Action
The Northern Ireland Ombudsman
Three
T-Mobile
Todd Planning
Training for Women Network Ltd
Translink
Transport 2000
Travellers Movement NI
TSO Bibliographic Department
Tyrone Brick
Ulster Angling Federation
Ulster Architectural Heritage Society
Ulster Farmers’ Union
Ulster Society for the Preservation of the Countryside
Ulster Wildlife Trust

29
University of Ulster
Urban and Rural Planning Associates
UTV Engineering Information Department
Vodafone Ltd
Warrenpoint Harbour Authority
WDR & RT Taggart
Western Group Environmental Health Committee
Wildfowl and Wetland Trust
Womens Forum NI
Woodland Trust
World Wildlife Fund (NI)
Youth Council For Northern Ireland