Dear Sir/Madam

Re: Belfast City Council Response to Call for Evidence for Permitted Development Rights for Mineral Exploration

Please find enclosed Belfast City Council’s response to the Call for Evidence for Permitted Development Rights for Mineral Exploration. The response was agreed at the Council’s Planning and Place Committee on 19th April 2016 and was ratified at the full Council meeting on 03rd May 2016.

If you require any further information or clarification on the issues raised, please contact [Redacted].

Yours sincerely,

[Redacted]
Development Planning & Policy Manager

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1 Background

In recent years there has been an increasing interest in mineral resources in NI. There is renewed interest in mineral prospecting, and new prospecting permits for precious and base metals and therefore there is a need to for a balanced approach to the exploration of mineral exploration.

The council recognises the need for appropriate balance in the protection of the environment, amenity and public safety and also the need to reduce the regulatory burden on the minerals and extractive industries.

Belfast City Council welcomes the review and the opportunity to comment and give evidence. The Council recognises that whilst minerals development can deliver significant economic benefits there is also a number of potential challenges arising from this type of development which should be considered through the planning system.

It should be recognised that the role of Planning is key in facilitating a sustainable approach to minerals development.

The Council fully supports the objective and need to undertake a review of permitted development rights for mineral exploration, and the need to bring forward detailed operational guidance policies within which will provide better clarity and certainty for all users of the reformed planning system.

2 Legislation Governing Mineral Permitted Development

The current Planning (General Permitted Development) Order Northern Ireland) 2015 (GPDO) sets out what type of development can be undertaken without requiring a planning application. Permitted development in relation to ‘mineral exploration’ and ‘development ancillary to mining operations’ are both dealt with in parts 16 and Part 17 of the General Permitted Development Order respectively.

The Council considers that the objective of a planning authority should be to ensure that the need for specific minerals development proposals to be assessed against the need to safeguard the local environments. The considerations should seek to minimise the impact on local communities, landscape quality, built and natural heritage, and the water environment whilst ensuring restoration, after exploration has ceased.

The Council recognises that as the local Planning Authority it has the opportunity to remove permitted development rights under Regulation 7 of the Permitted Development Order 2015. However, whilst Regulation 7 empowers the Council to issue a direction to remove the permitted development rights and require formal consideration of the proposal through an application, there is limited guidance on this process or the application of the provisions within the regulations. This concern regarding the absence of guidance is compounded by the fact that the power can only be exercised within 21 days receipt of the notification.
3 Requirements of Part 16 Mineral Exploration

Further explanation is set out in the following paragraphs on Mineral exploration for this purpose is granted permission by virtue of Class A of Part 16 to the schedule to the GPDO. The regulation sets out the following limited guidance:

*The developer wishing to carry out mineral exploration must notify the planning authority of proposed works and the legislation specifies the limitations in what can be considered to be permitted:*

- The development must be for the purpose of mineral exploration
- Development shall not exceed 4 months duration
- Development consisting of (a) Drilling a borehole, (b) Carrying out a seismic survey, (c) Making other excavations

In addition proposals cannot be considered as permitted where:

* a- the developer has not previously notified the council in writing giving details of the location of the proposed development, target minerals, details of plant and operations and anticipated timescale;*
* b- any operation is within an area of special scientific interest or site of archaeological interest;*
* c- any explosive charge of more than 1 kilogram is used;*
* d- any structure assembled or provided would exceed 3 metres in height where such structure would be within 3 kilometres of an airport.

In order to carry out these assessments effectively the Planning Authority would require significant detail to make a determination which in the context of the limited notice period could be very challenging.

4 Other Consents

The Council recognises that other consents may be required and these are undertaken separately by Statutory Bodies under their own legislation such as Regulations on the following:

- *Discharge consents under the terms of The Water (NI) Order 1999, administered by NIEA Water Management Unit;*
- *Pollution Control Permits (PPC), administered by NIEA Industrial Pollution and Radiochemical Inspectorate (IPRI);*
- *Quarry Regulations, administered by the Health and Safety Executive NI (HSENI);*
- *Minerals licensing administered by DETINI*

Minerals and petroleum prospecting in Northern Ireland is permitted in accordance with specific legislation, policies and statutory rules and is the responsibility of the Department of Enterprise, Trade and Investments. Any person who wants to explore for, drill for or extract oil or gas in Northern Ireland must hold a Petroleum Licence granted by the Department of Enterprise, Trade and Investment (DETI) under the Petroleum (Production) Act (Northern Ireland) 1964.
The application and licensing process is underpinned by regulations which, among other things, set out the arrangements for making and determining applications, permissible terms and conditions for granting a Petroleum Licence and the model clauses which may be incorporated in a Petroleum Licence.

The Council considers that, if permitted development is retained, it should be a prerequisite that other consents are in place prior to the Planning Authority having to make a determination as to whether or not works are permitted development.

5 Recommendations

a. If permitted development rights are retained consideration should be given to a longer notice period than 21 days to allow Councils to assess them properly.

b. As the onus is on the Planning Authority to make this determination it needs to be clear that there must be sufficient information available to make the determination. The assessment could be complex and there is limited guidance on how this notification is managed and operated. Guidance could help ensure the Planning Authority can make a determination as to whether or not it falls within the scope of the legislation.

c. Guidance should outline how other statutory bodies are involved in the process of mineral exploration and address the relationship between the licensing regimes and planning controls.

d. Council would suggest that guidance to outlining the process including schematics such as a flowchart is developed for guidance (similar to that used by Planning Authorities in England and Wales see below) to provide some clarity for all stakeholders in the processes.

e. Any final guidance should provide clarity and require the DOE or relevant Planning Authority to consult and give notice to neighbouring councils on such matters in recognition of the wider potential impacts.
Example: the flowchart below illustrates the process for used by Planning Authorities in England and Wales.