

Guide

The Handy Guide to Changes to the Planning System 2014

March 2014



Background

A new planning act was approved by the Assembly in May 2011. The Act sets out how the planning system will work when powers are transferred to local councils and aims to speed up the processing of planning applications, make appeals faster and enforcement tougher and more straightforward.

Most of the changes set out in the Act have not yet come into operation. However, higher enforcement fees came into effect immediately and changes to the time limits on enforcement action came into effect on 1 December 2011.



Functions that will stay with the Department of the Environment

- Legislation, policy and guidance
- Regionally significant planning applications
- Listing of buildings
- Setting fees, funding and grants
- Oversight role: audit, inspection and performance management

The Act sets out that the DoE must carry out its functions with the objective of “furthering sustainable development and promoting and improving well being.”

Current System



Proposed System under the Planning Act



Functions



Changes set out in the Act

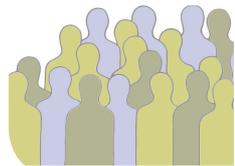
Some of the other key changes included in the Act are:

1. Categories of Development

The Act creates 3 different categories of development - [regional](#), [major and local developments](#). Planning applications for local developments and most major developments will be decided by the local councils. The DoE will assess applications that are regionally significant.

A regionally significant application is one that would:

- Be of significance to the whole or a substantial part of Northern Ireland or have significant effects outside Northern Ireland; or
- Involve a substantial departure from the local area development plan.



2. Community Consultation

The Act states that both the DoE and the Council must prepare a [Statement of Community Involvement](#) setting out how they will involve people in planning.

For major applications, the developer must carry out [community consultation](#) **before** a planning application is submitted. They must notify the Council that they are going to make an application at least 12 weeks in advance. Regulations will set out how this community consultation should be carried out. A report of the community consultation must be submitted with the planning application. If the requirements for community consultation have not been met, the planning authority can refuse to decide the application.

The Act removes the requirement for planning applications to be advertised in the local paper and allows new regulations to be made that will set out how planning applications should be advertised.

The Act makes it possible for statutory consultees, such as Roads Service or the Northern Ireland Environment Agency to be required to respond to consultation within a specified time frame.

3. Planning Appeals and Public Inquiries

- The Act states that [appeals must be made within four months](#) of when a planning decision is made (this was previously six months). This clause is now in force.
- New issues cannot be introduced at appeal hearings and the costs can be awarded if unnecessary expense is caused as a result of unreasonable behaviour.
- Persons other than the Planning Appeals Commission can be appointed by DoE to carry out inquiries and hearings into major planning applications.



Changes set out in the Act

4. Enforcement and Retrospective Applications

The Act sets out that **higher fees** will be charged for assessing applications for development that has already taken place without planning permission. If an enforcement notice is not complied with, **fixed penalty notices** can be issued by the Council, without the need to go to court. The maximum fine for enforcement offences has now been increased from £30,000 to £100,000.

Previously, development became immune from enforcement action after either four years or ten years, depending on the type of development. From 1 December 2011, development will become **immune from enforcement action after five years**.

5. Area Development Plans

The Act requires councils to prepare a time table for making plans. These must be made with the objective of furthering sustainable development. Development Plans will be made up of two documents:

The Plan Strategy

This will contain the Council's objectives in relation to development and the use of land and strategic policies to implement those objectives.

Local Policies Plan

After the plan strategy has been adopted, the Council must prepare a Local Policies Plan which contains policies in relation to development and use of land.

Both of these documents must take account of the RDS and any advice and guidance issued by the DoE. The Council must submit the Plan Strategy and Local Policies Plan to the Department of the Environment for an independent examination to be held. The independent examination will focus on the "soundness" of the plan and move away from the current objection based examination.

The Council must make an annual report to the Department of the Environment on whether the objectives set out in the development plan are being achieved.

6. Other Changes

Completion Notices

The Act allows for a completion notice to be issued by the Department of the Environment or the Council if they think that a development will not be completed within a reasonable time period.

Conservation Areas

The Department of the Environment must have special regard to enhancing the character or appearance of conservation areas where the opportunity arises.



Pre Determination Hearings

The Act allows for regulations to be made for pre determination hearings which would allow the applicant and “any other person so prescribed” a hearing before the council committee before a decision is made on an application. The Act also allows for regulations to be made setting out procedures for this type of hearing

Developer Contributions

The Act allows payments made through developer contributions to be made to other departments as well as the DoE.

Powers to Decline to Determine Applications

The Act sets out additional powers to decline to decide applications if:

- a similar application has been determined within two years;
- the applicant has appealed an enforcement notice;
- the PAC has refused a similar approval within the last two years; or
- it overlaps with an application submitted on the same day.

For further information about any of the above please contact us:

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