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**ITEM 7****Ards and North Down Borough Council**

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	06 December 2022
Responsible Director	Director of Regeneration, Development and Planning
Responsible Head of Service	Head of Planning
Date of Report	15 November 2022
File Reference	
Legislation	The Reservoirs Act (Northern Ireland) 2015
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable <input type="checkbox"/>
Subject	DFI Consultation Report - Synopsis of responses to consultation on the legislation to commence and implement the Reservoirs Act (NI) 2015 and the draft reservoir designation criteria, together with the Department's response
Attachments	Item 7a - Letter from DFI dated 01 November 2022 Item 7b - Consultation Report

Members may recall the Consultation as issued by the Department for Infrastructure (DfI) in late November 2021 in respect of proposed legislation to commence and implement the Reservoirs Act (NI) 2015 and the draft reservoir designation criteria.

Delegated authority was granted by the Council at its meeting of 22 December 2021 to Planning Committee to issue a response, which was agreed at the Committee's meeting of 18 January 2022, and duly submitted to the Department.

DFI has written to the Head of Planning dated 01 November 2022 providing a link to the Consultation Report which provides details of the key issues / comments raised in respect of the consultation and the Department's response.

**RECOMMENDATION**

It is recommended that Council notes the content of this report and the attached letter and Consultation Report.



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Ards and North Down Borough Council

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Your reference:

Our reference:

1<sup>st</sup> November 2022

Dear Ms McCullough

**Response to Consultation on Commencement and Implementation of the Reservoirs Act (NI) 2015**

Thank you for your response to the above consultation.

A copy of the Consultation Report which provides details on the key issues / comments raised in respect of the consultation and the Department's response is available at the following link: [Consultation responses on a legislative framework for reservoir safety published | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#)

Yours sincerely

Ryan Robinson  
Water and Drainage Policy Division



Department for  
**Infrastructure**

An Roinn

**Bonneagair**

Department für

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

# RESERVOIRS ACT (Northern Ireland) 2015

**Consultation Report** - Synopsis of responses to the consultation on the legislation to commence and implement the Reservoirs Act (NI) 2015 and the draft reservoir designation criteria, together with the Department's response.



## Draft Consultation report

### Introduction

- 1.1 The Reservoirs Act (Northern Ireland) 2015 (the Act) provides a proportionate regulatory and management framework for reservoir safety in Northern Ireland. The Act, when commenced, aims to manage the flood risk from an uncontrolled release of water due to reservoir failure from reservoirs capable of holding 10,000 cubic metres of water above the natural level of the surrounding land. These reservoirs are known as controlled reservoirs.
- 1.2 Some sections of the Act commenced on the day following Royal Assent (25 July 2015) while the remaining sections of the Act will come into operation on such day or days as the Department, by order, appoints. The consultation concerned those sections of the Act that the Department proposes to commence and the Regulations and Order that it proposes to make to introduce the key elements of the reservoir safety regime envisaged by the Act. The consultation also sought views on the draft designation criteria that the Department will apply when giving a designation to a controlled reservoir.
- 1.3 The aim of the consultation was to give those who are involved with, or have an interest in, reservoirs an opportunity to provide comments in relation to the Department's proposals in relation to the introduction of the Act. In particular, comments were most welcome from reservoir managers who are responsible for reservoir safety and reservoir engineers who will play an important role in the supervision, inspection and construction of controlled reservoirs.
- 1.4 The targeted 8 week consultation launched on 29 November 2021 and ended on the 23 January 2022. A letter issued to all those listed at **Annex A**, advising them of the consultation and the link to the consultation document and the response form on the website. Consultees were invited to respond to the consultation, on a consultation response form, by e-mail to [FloodingandDrainagePolicy@infrastructure-ni.gov.uk](mailto:FloodingandDrainagePolicy@infrastructure-ni.gov.uk) or to submit responses by post by the required date.
- 1.5 Consultation responses will help inform the final commencement orders, regulations, the reservoir designation criteria and the development of any appropriate and affordable grant scheme.

## 2. Consultation responses

- 2.1 A total of 19 responses were received in relation to the consultation and these were acknowledged.

2.2 All responses have been reviewed and the comments have been categorised in line with the consultation questions to allow a consistent analytical approach. Further details on specific key issues / comments raised in respect of the consultation and the Department's response to those issues/comments, are set out in section 4.

2.3 The consultation asked 8 questions:-

#### Part 1- Commencement

Question 1 Do you agree that the sections of the Act that the Department proposes to commence, include the key elements of the reservoir safety regime envisaged by the Act?

#### Part 2- Regulations

Question 2 Do you agree with the level of information that it is proposed is held on the controlled reservoirs register?

Question 3 Do you agree with the level of information that is proposed should be provided by reservoir managers at registration?

Question 4 Do you agree with the standard frequency of visits proposed for a high or medium consequence reservoir?

Question 5 Do you agree that the proposed level of emergency response information displayed at or near a reservoir is sufficient?

Question 6 Do you agree with the proposed approach to stop notices set out in the draft regulations at Annex D?

Question 7 Do you agree that consideration is given to an appropriate and affordable grant scheme to assist with the cost of reservoir safety works?

#### Part 3 – Designation Criteria

Question 8 Do you agree with the proposed criteria which will be used to give a reservoir a high, medium or low consequence designation?

2.4 Not all respondents answered all of the questions with some preferring to make general comments. The table at **Annex B** summarises the responses received in regard to the consultation questions. Respondents marked with an asterisk (\*) did not submit the response on the standard response form.

- 2.5 In general, there was support for the commencement and implementation of the Act with the majority of respondents agreeing with the sections to be commenced. It was evident from responses that provision of financial assistance was a key concern. There was also concern that without financial assistance reservoirs may be discontinued or abandoned resulting in adverse impacts on the environment and wider community.

### 3. Key issues Raised in responses

- 3.1 This section provides a summary of the key issues raised in the consultation responses. It should be noted that it is not intended to be a comprehensive report of every view expressed but rather a synopsis of the key issues raised by respondents. Section 4 provides a more detailed breakdown of the key issues/comments received and the Department's response.

**Question 1** Do you agree that the sections of the Act that the Department proposes to commence, include the key elements of the reservoir safety regime envisaged by the Act?

All respondents that answered this question agreed that the sections being commenced, include the key sections of the reservoir safety regime envisaged by the Act. Two respondents welcomed progress in this area but expressed concern about the length of time taken to commence the Act. A further two respondents commented that commencement should only take place if financial assistance was available.

**Question 2** Do you agree with the level of information that it is proposed is held on the controlled reservoirs register?

Eleven respondents (57%) that answered this question agreed with the level of information that it is proposed is held on the reservoirs register. One respondent disagreed stating that it was unrealistic to expect owners of rural lakes and reservoirs which do not generate an income to maintain unnecessary information. One respondent having no objection to the proposed information commented that more information was needed on how information would be used in line with General Data Protection Regulation (GDPR).

**Question 3** Do you agree with the level of information that is proposed should be provided by reservoir managers at registration?

Nine respondents (47%) who answered this question agreed with the level of information that is proposed should be provided by reservoir managers to register their reservoir with the Department. Two

respondents disagreed, one stating that the Department, having inspected reservoirs, already has information available and therefore no other information is required; and one stated the information to be provided should depend on the size of the reservoir thereby reducing the level of unnecessary information required.

**Question 4** Do you agree with the standard frequency of visits proposed for a high or medium consequence reservoir?

Seven respondents (37%) that directly answered this question agreed with the standard frequency of visits proposed for a high or medium consequence reservoir. Three respondents disagreed. Reasons included probability not being included in the designation criteria would result in unnecessary costs for reservoir owners where likelihood of reservoir failure is low; the accuracy of the data used in the designation criteria and no panel consulting engineers available thereby making costs prohibitive.

Other comments received, recognised that regular visits do seem crucial and further clarification is required for reservoirs which have been classified as medium consequence.

**Question 5** Do you agree that the proposed level of emergency response information displayed at or near a reservoir is sufficient?

In directly answering this question eight respondents agreed (42%) with the proposed emergency response information to be displayed while two respondents disagreed with proposals. One respondent stated that contact number only should be provided and another stated that reservoir name, registration number and contact numbers for the Department and Emergency services should be provided.

While not directly agreeing or disagreeing with proposals other comments included a concern regarding the need for information to be displayed at a reservoir where no public access is available and that information should not include the name of the reservoir manager as the Department already has this information.

**Question 6** Do you agree with the proposed approach to stop notices set out in the draft regulations at Annex D?

Seven of the respondents (37%) indicated full support for the proposed approach to stop notices. While one respondent agreed that the approach should only apply to new reservoirs and another, whilst agreeing with the approach, disagreed with the proposed Regulation 13: Recovery of costs by the Department.

Other respondents who did not indicate agreement or disagreement raised concerns including the length of time the Department has to decide to give a completion certificate; the scope for financial assistance being inadequate and the need for the Department to retain control to undertake remedial works, if required.

**Question 7** Do you agree that consideration is given to an appropriate and affordable grant scheme to assist with the cost of reservoir safety works?

There was widespread support for provision of a grant scheme with 18 (95%) of the respondents agreeing that financial assistance was needed. Many stated that support was crucial to cover all inspections and works in the interest of safety and the legislation would be unworkable if not provided. A number of respondents also indicated that without funding being made available that there was the potential for reservoirs to be abandoned or discontinued resulting in the loss of angling facilities and clubs with wider adverse impacts on health and wellbeing, the natural and historic environment and the economy.

One respondent commented that as many reservoirs formed part of cultural heritage therefore public safety concerns should be publically funded.

**Question 8** Do you agree with the proposed criteria which will be used to give a reservoir a high, medium or low consequence designation?

Seven respondents (37%) that directly answered the question indicated agreement to the proposed criteria which will be used to give a reservoir designation and one disagreed. Others commented that probability of reservoir failure should be taken into consideration when giving a designation and that a methodology should be developed or Defra's quantitative assessment of the probability of reservoir failure should be used in the designation process. Concern was also raised regarding the Department's estimates of capacity of lakes and reservoirs and made recommendation to take account of local knowledge in the process. One respondent did not have sufficient knowledge about the actual procedure to indicate agreement or disagreement while a further respondent stated that the process requires a technical knowledge which makes it difficult to comment other than in general terms.



#### 4. Specific key issues / comments raised and the Department's response

4.1 Details of the specific key issues / comments raised in respect of the consultation and the Department's response to those issues/comments, are set out below.

Respondent	Key issues / Comments	Department's response
Lissanoure Farms Ltd	<p>Concern that the Department has used overly onerous designations for each reservoir in their initial conclusions of the reservoirs leading to breakdown in trust and reservoir managers carrying out bathymetric surveys at their own cost. This has shown data used by the Department is substantially flawed and owners will not be able to fund unrealistic and unnecessary maintenance.</p>	<p>The Reservoirs Act (NI) 2015 defines what is to be regarded as a controlled reservoir and the Department is required to set out in regulations how the volume of water capable of being held above the natural level of the surrounding land is to be calculated. This was provided in the Draft Regulations at Annex C to the consultation and is consistent with the specifications for calculating the capacity of reservoirs in the rest of the UK.</p> <p>The methodology to produce reservoir inundation models is consistent with the existing UK approach and is used in determining the reservoir designation. The legislation provides for a review and appeal process if reservoir managers are not satisfied with the Department's decision on reservoir designation.</p>
	<p>It is unrealistic to expect owners of rural lakes and reservoirs to maintain unnecessary and burdensome data especially since many of these provide a wildlife sanctuary but not income. The Department should already have an appropriate amount of information.</p>	<p>Once the Reservoirs Act is commenced, the controlled reservoir register will be established and maintained by the Department. Other information to be maintained by the reservoir manager, including key information about the operation of the reservoir that could be valuable in the event of an emergency, is consistent with the records maintained under reservoir safety legislation in the rest of the UK.</p>
	<p>The Department already has inspected these reservoirs and has this information and therefore no further information should be required.</p>	<p>The management and maintenance regime provided by the Reservoirs Act starts with registration of a controlled reservoir with the Department. A reservoir manager must register their reservoir by providing the information detailed in Schedule 1 to Regulations at Annex C. The Department</p>

	may not hold all of this information at this time for all reservoirs.
Disagreement with the standard frequency of visits proposed for a high or medium risk reservoir – commented that the designation criteria, in their case, was based on incorrect data as to the amount of water held. The Department has ignored probability – there should be more and better quality data on probability. These dams generally fail after very substantial rainfall. However when a dam is fed by a spring or small stream (small catchment area) rather than a substantial river with a large catchment area, there should be recognition of this in the Department’s designation and they have refused to date to consider.	<p>The Department is required to set out in regulations how the volume of water capable of being held above the natural level of the surrounding land is to be calculated. This was provided in the Draft Regulations at Annex C to the consultation and is consistent with the specifications for calculating the capacity of reservoir in the rest of the UK.</p> <p>The methodology to produce reservoir inundation models is consistent with the existing UK approach and is used in determining the reservoir designation.</p> <p>Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed.</p>
Query where would emergency response signs be situated - every 10 metres around the lake (which has no public access). The Department has this information and if a dam should fail, they would be able to provide it.	Once section 59 is commenced, the Department will give directions to reservoir managers as to the manner and location of information to be displayed. It is considered that the manner and location may be different depending on availability of public access.
As regards stop notices, suggests that there should be a fully independent appeals system and one that is not influenced by the Department. There should be a provision to appoint specialist surveys who are not on the Department’s panel (to prevent undue influence from the Department).	The legislation proposed at Annex D to the consultation document provides that appeals as to the issue of a stop notice can be made to the Water Appeals Commission an independent body not influenced by the Department.
Advised that at the beginning of the process they were informed that there would be support forthcoming. It soon became apparent that the funds were not available and the Department had been disingenuous with the information they provided. Many of these	Concerns in respect of financial assistance are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed

	<p>bodies do not provide any income and unless appropriate support is forthcoming, it is suspected that many of these lakes will be released.</p>	<p>that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
	<p>Concern that the Department has been over zealous in this interpretation of designation criteria and there has been 'inflation' as they have tried to move lakes up in designation. Lissanourne Farms Ltd has two lakes in very rural locations and the Department has overly estimated by a very substantial margin the capacity of the lakes and they have not taken into consideration whether the lakes were spring fed or a small stream with a small catchment area. Therefore there should be substantially more consideration in the legislation to probability rather than saying it is too difficult in the consultation document. Surely the amount of water that feeds a lake is relevant.</p>	<p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Reservoir inundation maps have been produced for each controlled reservoir based on a similar methodology as used in the rest of the UK. The maps when overlaid with relevant data sets will list the receptors and the designation will be determined by the impact on the receptor against the designation criteria. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed.</p>
<p>Chairman of Ulster Angling Federation</p>	<p>Concern that without funding for service, panel engineers and engineering works many of UAF facilities and coaching HUBS will disappear as clubs walk away from the facilities due to ongoing costs. The Act has the potential to devastate the sport of angling which has been one of the few sports to continue to operate through the pandemic. UAF has worked extremely hard with partner organisations to develop HUB sites with coaches, equipment and facilities to coach kids, girls, ladies and adults and mental health groups and have met all their metrics, they believe it is likely that many of the HUB sites</p>	<p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through</p>

	<p>they have worked so hard to develop will be lost. Stressed the need for a fund in place similar to the one announced for NI Water last week.</p>	<p>the necessary procedures including being subject to approvals and budget availability going forward. The funding announced in respect of NI Water reservoirs was part of the Price Control 21 (PC21) 2021 – 2027 process which sets out the Regulators assessment of NI Water’s Business Plan and revenue requirements for this 6 year period.</p>
<p>Aidan Donnelly – Chairman of Armagh Angling Club</p>	<p>Armagh Angling Club were involved in the process of consultation on the Reservoirs Bill. Broadly supportive of the need to have reservoir safety but emphasizes that this legislation could only be workable if it was backed up with 100% grant aided financial package covering all inspections and proposed safety works if any were recommended. These clubs tend to be small in size and do not have access to huge sums of money in order to cover proposed works or repeated inspections. The loss of reservoirs and angling clubs would be unacceptable and it is a huge risk if finances do not accompany legislation.</p>	<p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
<p>Antrim and Newtownabbey Borough Council</p>	<p>ANBC disagree with the proposed designation criteria and note that the consultation highlights that there is no definition for ‘probability of occurrence’. To classify designation based on the potential adverse consequence alone will result in unnecessary costs for reservoir owners where a likelihood of reservoir failure is low. Query whether it is the intention of the Department to redesign the risk matrix for high, medium or low designation in light of having no agreed application for probability of occurrence.</p>	<p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability is not being considered in the process (consequence only) and therefore all references to risk were removed. When a UK industry methodology on the probability of</p>

		<p>reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p>
<p>Jim Haughey UAF</p>	<p>A number of member Angling Associations are very concerned about the reservoirs legislation as it has a high risk of removing the opportunities for angling on reservoir waters in the province. Concerns regarding the impact on the entire aquatic environment, social, health and well-being, economic value of angling and tourism.</p> <p>Present Status and Implementation: concerns regarding costs of inspections as clubs will not have the resources to pay. Concern that without funding clubs may walk away from the facilities due to ongoing costs or declare themselves bankrupt and there is a real danger that reservoirs will be lost as an amenity. Comprehensive funding is required to all those clubs and associations to comply with the legislation. All fees associated with the legislation need to be waived in the case of clubs and associations who provide an amenity for local tourist anglers, nature conservation and contributing to public good health.</p> <p>Assembly Research paper- which discusses issues associated with the Reservoirs Act: ignores issues concerning amenity, fisheries, natural environments, biodiversity etc with only peripheral reference to ‘change in the management and ownership of some reservoirs have caused loss of public access, and concerns over amenity and biodiversity.’ This failure to examine the spectrum of issues arising from legislation is fairly typical of the output of NI Government Departments which is traditionally superficial and poor quality. An appraisal of this legislation is required, the research paper is deeply flawed and should not be viewed as a reasonable appraisal of the proposals.</p>	<p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p> <p>This was a NI Assembly Research paper and not a paper produced by the Department.</p>
	<p>Valuing and Managing Natural Resources: we need careful consideration of the proposed</p>	<p>The Reservoirs Act seeks to regulate the safety of reservoirs to prevent an</p>

	<p>legislation – the UAF is not opposed in principal however the details of the process and the manner in which it is implemented hold a significant risk that many fisheries will suffer or disappear entirely. These waters additionally comprise a natural environmental resource which provides habitat for a range of wildlife and serve the community at large often encompassing public access, footpaths and walkways. There is an opportunity for government to recognise that the natural environment created by these reservoirs is deserving of protection and not a case of simply abandoning waters where new additional legal responsibilities are imposed in the absence of any consideration of finance.</p> <p>Failure to comply with legal obligations: - the very high risk to the future of so many reservoirs raises the question of the status of the legislative proposals in respect of environmental protections for these waters and their surroundings. It would suggest that a Strategic Environmental Assessment would be required and aspects of the Water Framework Directive may be applicable. A step change in the continuing degradation of our environmental assets should surely be the subject of some form of evaluation before the closures commence.</p> <p>Failure to carry out DFI policy on Blue/Green Infrastructure; Belfast Green and Blue Infrastructure Plan 2020; Living with Water in Belfast 2020: The approach to this new reservoirs legislation has ignored any consideration of blue/green infrastructure and the Living with Water in Belfast 2020.</p>	<p>uncontrolled release of water due to reservoir failure thereby protecting people, the environment, cultural heritage and economic activity from the risk of flooding.</p> <p>Environmental impact was considered as part of the policy development. It was considered that the implementation of this legislation would protect the environment by mitigating the risk of an uncontrolled release of water. The environment is also considered in the reservoir designation process to determine the level of management and maintenance required to preserve the integrity of the reservoir.</p> <p>Where a reservoir manager wishes to discontinue or abandon their reservoir, for whatever reason, the planning application process will require due consideration of environmental impacts before any appropriate permissions would be granted and such actions undertaken.</p> <p>The proposed new requirements of the Reservoir Act support the aims of the Living With Water in Belfast Plan. This 12 year, £1.4billion integrated Plan for drainage and wastewater management in Greater Belfast aims to deliver a new, strategic, long term approach to drainage and wastewater management to protect against flooding, enhance the environment and grow the economy by providing the necessary capacity in our drainage and wastewater infrastructure. The Plan promotes the use of blue/green infrastructure to store and slow down the</p>
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	<p>Suggests there is a case to raise the capacity of a controlled reservoirs to allow smaller reservoirs to opt out of the legislation.</p>	<p>The Assembly agreed that reservoirs capable of holding 10,000 cubic metres above the natural level of the surrounding land was the threshold for a reservoir to be regulated and therefore a controlled reservoir under the Reservoirs Act (NI) 2015. This section of the Act was commenced the day after Royal Assent in 2015.</p>
	<p>Puzzled by the concept that reservoir managers are made responsible in law for any failure to operate in accordance with the legislation. This must surely be a precedent whereby the legal owner of a property can be relieved of the normal legal responsibility resulting from ownership of an asset which can be directed to the named reservoir manager. It's hard to think of any other situation whereby the owner of a property can absolve himself of any legal responsibility in this manner.</p>	<p>The Reservoirs Act defines who is a reservoir manager for the purposes of the Act. Generally this is the person who manages or operates the reservoir. If no-one manages or operates the reservoir then the default position is the owner of the reservoir. Currently reservoir managers have a common law responsibility for the safety of their reservoir.</p>
	<p>Not opposed to new measures for reservoir safety in principal but registering opposition as many aspects remain unexamined. Request that the legislation is halted until it can be given reasonable consideration of many issues which have been so conspicuously lacking to date.</p>	<p>The policy framework for reservoir safety provided by the Reservoirs Act was agreed and passed in the Assembly in 2015. This recent consultation provides details on the further commencement of the Reservoirs Act and the regulations it proposes to make through the Assembly Legislative process.</p>
Norman	<p>Concern that many of the provisions included</p>	<p>Sections 1 and 2 of The Reservoirs Act</p>

<p>Richardson on behalf of Dr Loughridge</p>	<p>in the Act and in the documentation are intended for areas of water much larger than the one relevant in this response(Galwally Lake).</p>	<p>(NI) 2015 defines a controlled reservoir. Generally this is a structure, lake or other area designed and used for the collection and storage of water and which is capable of holding 10,000 cubic metres of water, above the natural level of the surrounding land. The Department is required to set out in regulations how the volume of water capable of being held above the natural level of the surrounding land is to be calculated. This was provided in the Draft Regulations at Annex C to the consultation and is consistent with the specifications for calculating the capacity of reservoirs in the rest of the UK. Therefore if Galwally Lake is capable of holding 10,000 cubic metres of water, above the natural level of the surrounding land, then it is a controlled reservoir and will fall within the scope of the Reservoirs Act (NI) 2015.</p>
	<p>The information proposed to be held on a controlled reservoir register seems appropriate, however, it is difficult to judge the detail in which information will be provided without access to the actual entry, or a draft of it.</p>	<p>When the Reservoirs Act (NI) 2015 is commenced the Department will establish and maintain a controlled reservoirs register. The information to be held on the register is provided in the Draft regulations at Annex C to the consultation document.</p>
	<p>Concern about the expectations placed on someone who is designated as a reservoir manager. In most cases it is likely to be private citizens who have no specialist knowledge of reservoir maintenance or flood risk management and without professional guidance, they may well be unable to advise the reservoir type. Some of the personal details required of reservoir managers may also be difficult in some cases, for example, the elderly or infirmed. Concerns also relates to situations where there may be multiple reservoir managers as collaboration in relation to responsibilities may not always be easy or possible. Careful consideration needed about the role of manager and the criteria for such a role, especially for small private lakes included in the legislation.</p>	<p>The Reservoirs Act defines who is a reservoir manager under the Act. Generally this is the person who manages or operates the reservoir or part of the reservoir. If no one manages or operates the reservoir or part of the reservoir then the default position is the owner of the reservoir is the reservoir manager.</p> <p>It is planned that the Department will provide guidance documents on the role and responsibilities of a reservoir manager and this would be available prior to the Act commencing.</p> <p>The Department will also be available to provide advice to reservoir managers as required.</p>



	<p>Regular visits seem appropriate. It would be helpful to know what designation is given to any relevant reservoir before a proper judgement can be made.</p>	<p>Reservoir manager of reservoirs designated as High or Medium Consequence will be required to commission a Supervising Engineer to supervise their reservoir. The frequency of visits that a supervising engineer should make to the reservoir is determined by the reservoir designation. Reservoirs designated as High or Medium Consequence will determine the number of visits by a supervising engineer required to a reservoir.</p>
	<p>It is important that emergency response information is available. However, concerns about high level of expectations on an ordinary citizen, especially if elderly or infirm, placed in the role of reservoir manager. Some of the responsibilities indicated e.g. the requirement on managers to 'provide consistent and easy to understand records' imply a professional position and level of knowledge and availability which may not be possible for someone who, purely on the basis of location or ownership of land, is given this role. There could also be funding implications associated with displaying information publicly.</p>	<p>The Reservoirs Act defines who is a reservoir manager under the Act. It is planned that the Department will provide guidance documents on the role and responsibilities of a reservoir manager and this would be available prior to the Act commencing.</p> <p>Reservoir Engineers commissioned to supervise or inspect a reservoir will also be able to provide technical advice to reservoir managers, as required.</p> <p>The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward</p>
	<p>Concerned about how these regulations relate to private land on which a small reservoir may be situated, not least when there are a number of managers designated on account of their land adjoining the edge of the reservoir.</p>	<p>The Reservoirs Act defines who is a reservoir manager for the purposes of the Act. It is possible that a controlled reservoir may be managed by one manager or by more than one (multiple) reservoir</p>

		managers. The requirements of the Act apply to each of the reservoir managers and any duties of the reservoir manager must be complied with by each of the managers. To avoid duplication of duties and reduce the administrative burden on reservoir managers, the Act provides that reservoir managers may nominate one of the managers to fulfill any requirements of the Act to which they are subject. Any nomination must specify the name, address and contact details of the nominee.
Andrew Muir MLA on behalf of Alliance Party of Northern Ireland	States that it is vital legislation regarding reservoir safety is commenced and implemented as soon as possible. The delay in this legislation coming forward is causing real issues both with regards reservoir safety and management, but also with local development and regeneration of towns and cities across Northern Ireland. District Councils, especially their Planning Functions, should all be afforded opportunity for response to this consultation with each Heads of Planning in each Council alerted.	Comments in relation to the delay in commencement of the reservoir safety legislation are noted. The Department for Infrastructure received statutory responsibility for the Reservoirs Act in June 2021 and is now progressing the commencement and implementation of the Act as soon as is practicable. All District/Borough Councils were provided an opportunity to comment on the consultation.
	Important that financial support is available for reservoir safety. Poor reservoir maintenance that impacts upon local development should be remedied as quickly and efficiently as possible with the proposed grant scheme offering support for those reservoir managers who are unable to provide the finances that are needed to fulfill maintenance or safety requirements. Funds provided through a grant scheme will need to be sufficient on a case by case basis to cover costs of maintenance that is required. Regulation 15 refers to the Department paying grants to reservoir managers 'as it considers appropriate' - it is important that what 'is appropriate' is made clear.	Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.
	Agrees with the draft designation criteria and aligns with the views expressed by Ards and North Down Borough Council that agreed methodology for assessing probability of an	The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of

	<p>uncontrolled release of water is needed and should be progressed at speed to ensure economic development is not stymied by being located within potential inundation zones.</p> <p>Also agree with comments from Ards and North Down Council namely 'it would also query why the legislation in Northern Ireland in respect of controlled reservoirs refers to 10,000 cubic meters compared to 25,000 cubic meters in England and the rationale for electing this smaller volume.</p> <p>Disappointed that section 92 of the Act is not being consulted upon concerning the enforcement action'.</p>	<p>water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk were removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p> <p>The Assembly agreed that reservoirs capable of holding 10,000 cubic metres above the natural level of the surrounding land was the threshold for a reservoir to be regulated and therefore a controlled reservoir under the Reservoirs Act (NI) 2015. This section of the Act was commenced the day after Royal Assent in 2015.</p> <p>The Reservoirs Act 1975 which applies in England and Wales and the Reservoirs (Scotland) Act 2011 also provides for this threshold.</p> <p>Section 92 is included in Commencement Order No 2 (Annex B to the consultation document) and will be commenced when this Order is made.</p>
<p>John Hogg &amp; Co Ltd</p>	<p>The potentially significant cost consequences to private owners may have an adverse impact on the environment, tourist facilities and the health and wellbeing of club members and the wider community. Essential that funding is made available or many community angling clubs will cease to exist. Landowners will understandably seek to recover costs from</p>	<p>Concerns regarding the potentially significant costs to private owners and the adverse impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the</p>

	their tenants.	Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.
	The level of information provided by reservoir managers at registration should depend on the size of the reservoir there-by reducing the level of unnecessary information required.	The Reservoirs Act (NI) 2015 defines a controlled reservoirs as any structure or area capable of holding 10,000 cubic metres above the natural level of the surrounding land. Therefore it is the amount of water above the natural level of the surrounding land that determines which reservoirs will be regulated.
	Disagrees with the standard frequency of visits to a high or medium consequence reservoir as there is currently no panel of consulting engineers available in NI thereby making costs prohibitive.	Once the Act commences, the Department will be establishing panels of reservoir engineers and appointing suitable reservoir engineers to each of these panels to undertake the roles required under the Act e.g. inspection and supervision of a reservoir.
	Disagrees with the level of emergency response information - all that should be available is an emergency contact number.	The Reservoirs Act requires a specific level of emergency information to be displayed at or near a reservoir.
	Agrees with the proposed approach to Stop Notices but for new build reservoirs.	A stop notice may only be issued if an activity is being carried on, or is likely to be carried on, and the Department considers the activity will or is likely to present a risk to the safety of the reservoir or involves or is likely to involve the commission of an offence under the Act. This could apply to all types of reservoirs and therefore cannot not just apply to new build reservoirs.
DAERA Salmon and Inland Fisheries Forum	Concerned about the effects of the legislation on stillwater fisheries in NI in that so many of these will have to be closed, and the water drained, as the cost of inspections et cetera will be unsustainable.  Concern about the impact that costs of inspections will have on many angling clubs	Concerns regarding the potential impacts of the legislation on stillwater fisheries, the environment, biodiversity, climate and the wider community are noted. Environmental impact was considered as part of the policy development. It is considered that the implementation of this legislation would mitigate the risk of an

	<p>which are an integral part of local communities and provide for an activity which causes virtually no damage to the natural environment and the climate when compared to other sports and activities. Concern about the potential impact of costs of inspection requirements and associated actions and resulting increase in fees which could prevent many not taking part.</p> <p>Many of these waters comprise a natural environmental resource which provides habitats for a wide range of wildlife and often includes public access footpaths and walkways. Explains that it goes against a range of government policies to pursue this legislation at a time when world biodiversity must be improved to help repair our climate on the planet. The retention of these bodies of water needs to be seen as biodiversity/climate positive.</p> <p>When government departments are trying to improve community health through outdoor activity exercise etc it would seem counter-productive to introduce measures which have the effect of closing facilities which offer high quality environments for such outdoor activity. During the Covid pandemic when angling was one of the few sports which was able to continue it has been well established that these bodies of water, provided many opportunities and benefits especially in relation to mental health. Stresses the importance of finding some means to finance these reservoir inspections from government sources – if not there could be widespread closures and draining of our spillwaters. It would be a tragedy if these facilities were closed just at a time when society is coming out of the pandemic and our community begins to function normally once again.</p>	<p>uncontrolled release of water thereby protecting the environment and the health of the wider community. The environment / public health and life is also considered in the reservoir designation process to determine the level of management and maintenance required to preserve the integrity of the reservoir.</p> <p>The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
<p>NI Water</p>	<p>More information required on how information on controlled reservoirs will be used and shared in line with GDPR</p>	<p>The Department will comply with GDPR as regards the information held on controlled reservoirs.</p>
	<p>Some clarification is required for reservoirs classified as medium consequence – one visit</p>	<p>The supervising engineer will be required to provide an annual statement to the</p>

	<p>per 12 months for high consequence and one visit per 36 months for medium consequence. Refers to section 26(5) - How often will a statement be required for medium consequence reservoirs as section 26(5) of the legislation requires one statement per year?</p>	<p>reservoir manager of medium consequence reservoirs. It will be for the supervising engineer to determine if a visit is required to enable the statement to be completed. This requirement by regulation to advise of the standard frequency of visits by supervising engineers was provided to alleviate concerns by the Agriculture and Rural Development Committee (when Bill was being progressed through the Assembly) that supervising engineers would visit reservoirs frequently which may add to the management costs. It is expected that supervising engineers will determine visits taking account of their professional judgement – in any case the Act also requires that if the inspecting engineer considers that the supervising engineer should visit the reservoir more frequently than is required by the Regulations the inspecting engineer must specify in the inspection report the intervals, when, or in what circumstances any additional visit should take place.</p>
	<p>In relation to emergency response information, states that the provision of personal information on a public display is inappropriate and could present private reservoir managers with concerns. As the Department will have the contact information as part of registration process it is considered that this display should provide the reservoir name, registration number and contact details of the Department and Emergency services only.</p>	<p>The Reservoirs Act requires a specific level of emergency information to be displayed at or near a reservoir and this requires the name of the reservoir manager to be displayed. The controlled reservoir register will be available for public inspection.</p>
	<p>In relation to approach to stop notices, some further clarification is required as to how long the Department has to decide whether to give a completion certificate or not.</p>	<p>The draft regulations at Annex B to the consultation document provides that when the Department is satisfied that all the steps specified in the stop notice have been taken it must give the reservoir managers a completion certificate. If a reservoir manager applies for a completion certificate, the Department must make a decision as to whether or not to give a completion certificate within 14 days from</p>

		<p>the date an application for a certificate is made by the reservoir manager. Where the Department decides to give a completion certificate it must do so within 14 days of making its decision.</p>
	<p>Clarification required regarding whether all reservoir managers will be eligible for grant funding, the criteria to apply and other considerations with regards to the scheme.</p>	<p>The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
	<p>Probability should be considered in the designation process as well as the Defra 'Guide to risk assessment for reservoir safety management' which provides a quantitative assessment of the probability of failure. Without the consideration of overall risk as a function of consequence and probability reservoir managers will be in a position where new development downstream or a change in environmental or cultural heritage asset designation within the inundation area will automatically change a reservoir designation for potentially low to high risk. Reservoir managers will have no option for the recovery of the additional associated costs but without consideration of overall risk no investment at the site to reduce the likelihood of failure can have any impact on the rating. If overall risk was considered, investment to reduce the likelihood of failure and reduce the risk to an acceptable level would be possible, incentivising reservoir managers to reduce the likelihood of failure. Consider that within such an assessment the overall risk of NI Water service reservoirs, which are likely to be have a high designation</p>	<p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk was removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.  The methodology used to produce the reservoir inundation mapping takes</p>

	would be low due to the significantly lower likelihood of failure. The proposed approach will consider such structures as to present the same overall risk as a large impounding reservoir, with a disproportionate investment required in terms of monitoring and supervision.	account of the materials used to construct the reservoir and the type of reservoir i.e. whether it is an impounding or service reservoir. Therefore, NI Water's service reservoir will have been treated differently in the mapping process and the output will provide the impacts to the receptors in the reservoir inundation areas.
Clandeboyne Estate	To require private landowners to fulfil these requirements there should be greater financial and professional assistance available in order to meet what is being sought. Reservoirs form part of built and natural heritage. Planning permissions have been granted by local government and in many cases is what has created or compounded the flood risk as they often have been allowed within the flood plain. If the requirements are being driven primarily by public safety concerns then the consequences should be met from public funds.	Your concerns regarding financial assistance and the potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.
	Feel that silt levels should not be included in the calculation of reservoir volume unless there is an actual risk that the silt is likely to escape. To that extent believe the measurement calculation should be more nuanced. Check drafting of 2(2) of the regulations at Annex C – should that not say that water that is capable of flowing out over the natural land be <b>excluded</b> for the calculation? At the moment there is a double negative in that provision which suggests that it be included.	It is not proposed to include silt in the calculation of the volume of a reservoir unless it is likely to escape. The drafting of Regulation 2(2) (Annex C) has been checked and is correct – it is only water that is capable of flowing out of the reservoir in the event of an uncontrolled release of water that will be included in the calculation.
Ligoniel Environment and Heritage Task Group	Current arrangements do not take account of the consequences of waterbodies owned and/or managed by 3 <sup>rd</sup> sector bodies for public benefit and use.	The Reservoirs Act defines that reservoir managers are responsible for reservoir safety. It does not make any distinction on whether the reservoir is managed by a public sector organisation, 3 <sup>rd</sup> sector organisation or a private individual, nor is there any scope to account for the potential use of the reservoir.



	<p>Financial support is required to support this aspect of the value of waterbodies owned and/or managed by 3<sup>rd</sup> sector bodies. Failure to provide funding or a piecemeal approach to such funding will cause major problems for what are small 3<sup>rd</sup> sector bodies in terms of liabilities and long term planning. What would have seemed reasonable development of such public use for a range of social and health benefits will now be viewed as unreasonable and irresponsible risks at a trustee/director level.</p> <p>Consequent loss of 3<sup>rd</sup> sector ownership and management will lead to either a loss of such public use or replacement by government department, or, in the event of being unable to divest these sites, loss of these 3<sup>rd</sup> sector community groups themselves.</p>	<p>Your concerns regarding financial assistance and the potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
Ards and North Down Borough Council	<p>Expressed disappointment that it has taken nearly five and a half years to get to this point despite the relevant government departments having expressed serious concern in respect of damage to human life/health the environment, cultural heritage and economic activity.</p>	<p>Your comments in relation to the delay in commencement of the reservoir safety legislation is noted. The Department for Infrastructure received statutory responsibility for the Act in June 2021 and is now progressing the commencement and implementation of the Act.</p>
	<p>Responding to Q6 Stop Notices, Council does not agree with the proposed regulation 13: recovery of costs by Department. It queries why as part of its oversight regime in relation to the Act the Department would be able to recover such costs including investigation costs, admin costs and costs of obtaining expert advice including legal costs.</p>	<p>The Reservoirs Act (NI) 2015 provides a power that the Department may, by notice served, require the reservoir manager on whom a stop notice is served to pay the amount of any costs reasonably incurred by the Department in relation to serving a stop notice.</p>
	<p>Council considers grant funding a critical factor in respect of ensuring compliance with the Act and should cover all critical works to bring reservoirs to appropriate standard and enable economic development to proceed within inundation zones. More detail is required on what the Department might consider 'is appropriate' to receive funding and would wish such funding to be made available as soon as possible. Regulations</p>	<p>The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The</p>

	<p>should be put in place as soon as practicable to address this critical section of the Act.</p>	<p>Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
	<p>Whilst the Council agrees generally with the proposed designation criteria it is extremely concerned there is not yet an agreed industry methodology for assessing probability of an uncontrolled release of water. Such a standard should be researched and identified immediately given it is more than five years since the Act was introduced as this criterion is pivotal to ensuring that economic development is not stymied by being located in the inundation zones. The issue seems to have arisen from the fact that there is no idea of probability and therefore planning policy is based solely on adverse consequences which is having a detrimental impact on proposals within the major category of development within inundation zones.</p>	<p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk were removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p>
	<p>The Council queries how the information (one or more commercial property or business in the reservoir inundation) is calculated particularly in urban areas where land use is subject to frequent change and the category of commercial/business had wide ranging staffing/customer parameters.</p>	<p>The reservoir designation analysis was carried out using OSNI Address data which is maintained by Land and Property Services (LPS) with help from local councils and Royal Mail. OSNI Pointer dataset provides up-to-date information such as postal address, geographical position (XY coordinates), building status, multiple occupancy and building use. Using a Unique Property Reference Number (UPRN), it was possible to join the pointer dataset to another OSNI dataset (known as OSNI Fusion Buildings) which contains the footprint of every address property in NI. By combining the building use data associated with OSNI pointer data with the building floorplan data associated</p>

		<p>with OSNI Fusion Buildings data, it was possible to estimate the potential damages from reservoir flooding to residential and non-residential properties (including commercial).</p> <p>The reservoir designations are required to be re-assessed at least every 10 years.</p>
	<p>The Council queries if it would also be appropriate to include designated conservation areas and areas of Townscape/Village Character, each of which is designated under Planning legislation in respect of the architectural or historic interest in each which have a particular character worthy of conservation.</p>	<p>The Department will give this matter further consideration.</p>
	<p>Council is disappointed that section 92 of the Act in relation to publication of enforcement is not being considered for consultation at this stage.</p>	<p>Section 92 is included in Commencement Order No 2 (Annex B to the consultation document) and will be commenced when this Order is made.</p>
	<p>Council queries why NI legislation in respect of controlled reservoirs refers to 10,000 cubic meters compared to 25,000 cubic meters in England and what is the rationale for electing this volume.</p>	<p>The Assembly agreed that reservoirs capable of holding 10,000 cubic metres above the natural level of the surrounding land was the threshold for a reservoir to be regulated and therefore a controlled reservoir under the Reservoirs Act (NI) 2015. The Reservoirs Act 1975 which applies in England and Wales and the Reservoirs (Scotland) Act 2011 also provides for this threshold.</p>
<p>Mid Ulster District Council</p>	<p>Notes that the legislation is being brought into play without any consideration of the financial impact being placed on new duty holders. The Department should as part of the financial impact assessment prepare a grant funded programme that the duty holder including Mid Ulster Council should be able to bid for and obtain financial support to help undertake any planned or programmed remedial or improvement works required to ensure the continued safety of reservoir structures which has inevitably arisen from lack of funding by the Department in this area</p>	<p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a</p>

	<p>of work. Funding packages should be prioritised to reservoirs now designated as high or medium consequence and which requires sizeable capital improvement works to ensure their integrity and continued good maintenance going forward.</p>	<p>grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
	<p>Any data required to be held on the controlled reservoirs register should be in accordance with Data Protection principles.</p>	<p>The Department will comply with GDPR as regards the information held on controlled reservoirs.</p>
	<p>Display of emergency response information should only provide reservoir name, registration number and contact details for the Department and Emergency Services.</p>	<p>The Reservoirs Act requires a specific level of emergency information to be displayed at or near a reservoir.</p>
	<p>With regard to stop notices, Department should retain control to undertake immediate remedial work if required in the event that more than one landowner is involved due to potential for delay or dispute.</p>	<p>The Reservoirs Act (NI) 2015 defines that a reservoir manager is responsible for reservoir safety. The Department has enforcement powers which it may exercise, if required, to ensure reservoir managers comply with their responsibilities. The Act also provides emergency powers which applies where it appears to the Department that immediate action is needed to protect persons or property against an escape of water from a controlled reservoir. The Department may take any measures that it considers necessary to remove or reduce the risk to persons or property or to mitigate the effect of an escape of water.</p>
	<p>The planned approach to designation suggests that probability of an uncontrolled release of water will not be considered as there is presently no agreed industry methodology. This seems to neglect the guidance within Defra 'Guide to risk assessment for reservoir safety management' which includes a quantitative assessment of probability of failure. Without the consideration of overall risk as a function of consequence and probability reservoir managers will be in a position where new development downstream or a change in environmental or cultural heritage asset designation within the inundation area will automatically change a reservoir designation for potentially low to high risk. Reservoir managers will have no</p>	<p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk</p>

	<p>option for the recovery of the additional associated costs but without consideration of overall risk no investment at the site to reduce the likelihood of failure can have any impact on the rating. If overall risk was considered, investment to reduce the likelihood of failure and reduce the risk to an acceptable level would be possible, incentivising reservoir managers to reduce the likelihood of failure. The cost of any improvement work necessitated by new development within the zone of consequence downstream should be equally apportioned to that development to mitigate unnecessary or unsustainable cost to the reservoir operator.</p>	<p>were removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p> <p>In respect of Planning the DfI Rivers Technical Guidance Note 25 <i>'The Practical Application of Strategic Planning Policy for 'Development in Proximity to Reservoirs'</i> Provides the following guidance:  3.8 <i>'When obtaining assurance regarding reservoir safety, the developer should engage with the Reservoir Manager (if it is a different party). This will also provide an opportunity for the Reservoir Manager and developer to jointly consider any structural improvement works required to make the reservoir safe or other implications the development may have for the Reservoir Manager. The funding of such works is a private matter between the developer and the Reservoir Manager.'</i></p>
Ryan Greer	<p>An affordable grant scheme is essential to provide reservoir managers of environmentally and historically sensitive reservoirs with meaningful support to ensure that both public safety and environmental requirements are met. In cases where a body of water is designated as a reservoir due to its capacity, the potency of the legislation ensuring regulation and safety of this body of water must be matched by support to ensure that it cannot simply be abandoned or discontinued where this would be detrimental to the surrounding natural and historic environment.</p>	<p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
Cllr Andrew	Considers the classification is applied too	The Reservoirs Act (NI) 2015 defines a

Clarke – Mid and East Antrim Council	<p>rigidly. Some room must be given for reservoirs which do not neatly fall into these classes, for example, an old ornamental pond in grounds of stately home and which is home to all sorts of wildlife and locals have fishing rights. It is perhaps two metres at the deepest point. Widespread anger and media coverage that a small isolated pond would be treated the same as Spelga Dam and despite several engineer’s reports no evidence of structural fault was found.</p>	<p>controlled reservoirs as any structure or area capable of holding 10,000 cubic metres above the natural level of the surrounding land. Therefore it is the amount of water above the natural level of the surrounding land that determines which reservoirs will be regulated and not the size of the reservoir. The definition of a controlled reservoir commenced the day after Royal Assent in 2015.</p>
	<p>Suggests that the legislation should provide for discretionary designation where there are strong historical or environmental interests and no evidence of any danger. For example, by strengthening section 16.10 to read “local knowledge ‘shall’ be taken into account” and another way is to minimise, rather than rule out the probability of a failure taking place as part of an assessment.</p>	<p>The Department will change, as suggested, the wording in the designation criteria to read ‘local knowledge shall be taken into account’.</p> <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process. The Act was drafted as such to alleviate concerns during the passage of the Reservoirs Bill through the Assembly process that probability was not being considered in the process (consequence only) and therefore all references to risk were removed. When a UK industry methodology on the probability of reservoir failure has been agreed the Department will be required to take account of probability in the designation process.</p>
	<p>Suggest that the Department seek to be as transparent as possible in the information they allow to the public. Suggest only restricting information to those reservoirs considered ‘strategic’ i.e. part of the NI Water system, or close to population centres.</p>	<p>The National Protocol provides the guidance for the Department as to the release of information in relation to controlled reservoirs.</p>
	<p>In the case of Kilwaughter Castle, the engineers report stated capacity of 100,000 cubic metres thus given a high consequence</p>	<p>The Reservoirs Act (NI) 2015 requires the Department to set out in regulations how the volume of water capable of being held</p>

	<p>designation. However previous bathymetric survey had been carried out by the Department and measured it at under 20,000 cubic metres. The substantially wrong higher figure was the basis of flood plan analysis likelihood of homes being affected etc. The Department refused to share any information or the calculations for the extent of flooding on the grounds of National Security.</p>	<p>above the natural level of the surrounding land is to be calculated. This was provided in the Draft Regulations at Annex C to the consultation and is consistent with the specifications for calculating the capacity of reservoirs in the rest of the UK.</p> <p>The methodology to produce reservoir inundation models is consistent with the existing UK approach and is used in determining the reservoir designation. The legislation provides for a review and appeal process if reservoir managers are not satisfied with the Department's decision on reservoir designation.</p>
<p>Antrim and District Angling Association</p>	<p>Agrees that the legislation is required in general terms but to apply it unilaterally to small reservoirs or bodies of water such as Potterswall Dam is seriously flawed. It is a small shallow dam which takes water from a small pipe and even if the dam was to give way instantly the volume of water is very small. Concern at having to pay needlessly engineers to make safety assessments etc.</p>	<p>The Reservoirs Act (NI) 2015 defines a controlled reservoir as any structure or area capable of holding 10,000 cubic metres above the natural level of the surrounding land. Therefore it is the amount of water above the natural level of the surrounding land that determines which reservoirs will be regulated and not the size of the reservoir.</p> <p>The Department is required to give each controlled reservoir a designation of High, Medium or Low Consequence. The consequence of an uncontrolled release of water will be informed by reservoir inundation mapping. Reservoir inundation maps have been produced for each controlled reservoir based on a similar methodology as used in the rest of the UK. The maps when overlaid with relevant data sets will list the receptors and the designation will be determined by the impact on the receptor against the designation criteria. Like in the rest of the UK, the consequence of an uncontrolled release of water will be used in the designation process until an agreed UK methodology to determine the probability of reservoir failure has been developed.</p>
	<p>Compare a small shallow reservoir to the</p>	<p>The Reservoirs Act (NI) 2015 defines a</p>

	<p>existence of two weirs on the Six Mile Water at Dunadry where in large floods the back up of flood water from these weirs extends from Dunadry to Templepatrick and above. Queries why this legislation is being enacted when there are far larger risks elsewhere.</p>	<p>controlled reservoir, and what is not a controlled reservoir. For the purposes of the Act 'a weir which does not serve a functional or operational purpose as regards a controlled reservoir' is not a controlled reservoir.</p>
	<p>ADAA is a community organisation providing for the varied needs of a wide spectrum of people including the less well off. The needless additional fees for inspections etc means our members fees will have to increase and as a result many will be denied the opportunity to fish. ADAA receive no financial assistance from government and it is appalling that it appears this Act is being implemented without regard to the impact it may have on a wide section of society. The Association feels very strongly that the approach is very damaging to the economic considerations, social welfare, health, environment and climate of people in the province.</p> <p>Concern that the Association may have to cease operating this dam despite an increase in fees and the negative consequences of this on the environment, social, health and well-being, climate and biodiversity. There is also very valuable built history and this includes Potterswall Dam – this aspect must be taken into account.</p>	<p>Concerns in respect of financial assistance and potential impacts are noted. The Department recognises the importance of supporting the implementation of the regulation of reservoir safety as directed by the Reservoirs Act; therefore, it is proposed that the section to provide the Department with the power to make regulations in respect of grants will be commenced (section 114) and Annex D includes draft regulations to provide for a grant scheme to be developed. The Department will explore options for a grant scheme which will then go through the necessary procedures including being subject to approvals and budget availability going forward.</p>
	<p>The proposal for reservoir managers to be responsible in law for failure to operate in accordance with the legislation and with a potential fine of up to £20,000 and one year in jail is quite frankly ridiculous in the context of this Association's position and role and of course the many others in a similar situation.</p>	<p>Reservoir managers currently have a common law responsibility to maintain their reservoirs. In respect of the potential penalty, this would apply where a reservoir manager fails to comply with a stop notice.</p>
	<p>All the negative consequences of enacting this legislation are primarily due to a silo approach to these matters taken by the Department concerned and the Association requests the Assembly to have a major review of this matter and ensure that the numerous issues mentioned by the Association are taken</p>	<p>The Reservoirs Act (NI) 2015 provides the policy framework for the reservoir safety management and maintenance regime for controlled reservoirs. This policy was agreed and passed by the Assembly in 2015. This consultation provides details on the further commencement of the</p>



	on board.	Reservoirs Act and the regulations it proposes to make through the Assembly Legislative process.
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**Annex A****List of consultees – Targeted consultation**

Reservoir Managers / owners of reservoirs in Northern Ireland

Institution of Civil Engineers

British Dam Society

Engineers Ireland

Office of Public Works (ROI)

District /Borough Councils

Ulster Farmers Union

Ulster Angling Federation

CIWEM

NIAPA

Ulster Coarse Fishing Federation

Defra,

Welsh Government,

Scottish Government

UK Reservoir Safety Regulators – SEPA, EA, NRW

## Annex B

**Summary of the responses raised in regard to the consultation questions.**

Respondent	Questions															
	Part 1		Part 2												Part 3	
	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16
Lissonoure Farms Ltd(Mr Mackie)	A	C	D	C	D	C	D	C	-	C	-	C	-	C	-	C
Ulster Angling Federation* (Gary Houston)	-	-	-	-	-	-	-	-	-	-	-	-	A	C	-	-
Aidan Donnelly*(Chair man Armagh Angling Club)	A	-	A	-	A	-	A	-	A	-	A	-	A	C	A	-
Antrim and Newtownabbey Borough Council*	A	-	A	-	A	-	D	C	A	-	A	-	A	-	D	C
Jim Haughey (on behalf of UAF)*	General comments															
Dr N Richardson (on behalf of Dr G Loughridge)	A	C	A	C	-	C	-	C	-	C	A	C	A	C	-	C
Alliance party of Northern Ireland	A	C	A	C	A	C	A	C	A	-	A	C	A	C	A	-
John Hogg & Co Ltd	A	C	A	-	D	C	D	C	D	C	A	C	A	C	-	C
DAERA Salmon and Inland Fisheries* (Jim Haughey Chairman)	General comments															
NI Water	A	-	A	C	A	-	-	C	-	C	-	C	A	C	-	C
Clandeboyne Estate (Ian Huddleston)	A	C	A	C	A	C	A	-	A	-	-	C	A	C	A	C
Ligioniel Improvement	A	-	A	-	A	-	A	-	A	-	A	-	A	-	A	-

Association																		
Ligioniel Environment and Heritage Task Group*	General comments																	
Ards and North Down Borough Council	A	C	A	-	A	-	A	-	A	-	A	C	A	C	A	C		
Armagh, Banbridge and Craigavon Borough Council	A	-	A	-	A	-	A	-	A	-	A	-	A	-	A	-		
Mid Ulster District Council	-	C	-	C	-	C	-	C	D	C	-	C	A	C	-	C		
Ryan Greer	A	-	A	-	A	-	A	-	A	-	A	-	A	C	A	-		
Cllr Andrew Clarke, Mid and East Antrim Council*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		C
Antrim and District Angling Association*	General comments																	

- Key A = Agree  
 D = Disagree  
 C = Comments provided

Unclassified

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## ITEM 8

## Ards and North Down Borough Council

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	06 December 2022
Responsible Director	Director of Regeneration, Development and Planning
Responsible Head of Service	Head of Planning
Date of Report	15 November 2022
File Reference	
Legislation	The Planning Act (NI) 2011 and The Planning (General Development Procedure) Order (NI) 2015
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable <input type="checkbox"/>
Subject	DfI Consultation on Validation Checklists
Attachments	Item 8a - Letter from DfI re Consultation Item 8b - DfI Consultation on Validation Checklists Item 8c - Draft response to Consultation

**Purpose of Report**

1. To advise the Committee that the Department for Infrastructure has written to the Council informing of a public consultation on proposals to amend the Planning (General Development Procedure) Order (Northern Ireland) 2015 ('GDPO') to introduce validation checklists for planning applications submitted to the regional and local planning authorities.

**Background**

2. Article 3 of the GDPO sets out what is to be contained within an application for planning permission as follows:
  - A written description of the development;
  - The postal address of the land which the development related to (or description of the land if no postal address);
  - Name and address of applicant and agent (if applicable);
  - A plan sufficient to identify the land to which it relates and showing the situation in relation to the locality and neighbouring land;

## Unclassified

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- Such other plans and drawings as necessary to describe the development;
  - A plan identifying where any neighbouring land is owned by the applicant;
  - An ownership certificate;
  - A pre application community report (for proposals in major category of development);
  - A design and access statement (if required);
  - 3 additional copies of plans; and
  - The relevant fee.
3. Article 3 (6) sets out that the Council may by direction in writing addressed to the applicant require such further information as may be specified in the direction to enable the Council to determine any application.
  4. The above list is what is referred to as being the 'validation checklist' and the Council must be in receipt of all the above before being able to deem an application 'valid' in order to commence the appropriate processing. However, it has been recognised that the legislation as exists sets an extremely 'low bar' to make a legally valid planning application.
  5. The Northern Ireland Audit Office Report into the planning system in Northern Ireland, dated February 2022, reported a view that the criteria set out in the Planning Act was too narrowly prescribed and did not require submission of key supporting documentation (e.g. flood risk assessments, transport assessments, bat surveys) at the point of submission. This means that potentially 'incomplete' (not front-loaded) applications must be accepted by the planning authority (having met the minimum statutory requirements) and from which the time period for statutory processing begins.
  6. The NIAO believes this contributes to inefficiency and poor processing times in a number of ways:
    - statutory consultees are often expected to provide a substantive response to planning applications where essential supporting information is missing;
    - consultees are spending time on poor quality or incomplete applications, and often have to be consulted multiple times on the same application; and
    - applications which arrive at the Planning Committee for a decision often have to be deferred to allow supporting information to be provided.
  7. The NIAO considered if the planning system continues to accept poor quality applications, this creates a culture of speculative applications, whereby the system is being used to effectively "MOT" proposals and determine the assessments required.
  8. The Public Accounts Committee Report published March 2022 highlighted significant concern regards the quality of applications entering the planning process, and that the current system does not encourage submission of good quality applications. Thus it recommended that the Department implement changes to improve the quality of applications entering the system and believed the introduction of validation checklists is one way to achieve this.

Unclassified

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9. The Council operates an informal Validation Checklist, and whilst useful to direct certain applicants, there is significant pushback from agents who meet the current statutory validation checklist, thus making such checklists mandatory is required via legislative amendment.

### **Proposal**

10. The Department is proposing to amend the current GDPO to enable a planning authority to prepare and publish 'checklists' above the current statutory minimum statutory requirement which would remain unchanged, setting out the additional supporting information/evidence which would be required to accompany different types of planning application. This would provide flexibility for individual councils to take an approach that suits their local area and planning issues.
11. The consultation document sets out the generally accepted benefits of such an approach in respect of validation checklists:
  - they set out the scope of information required at the outset to ensure a 'fit for purpose' submission;
  - they enable the planning authority to have all the necessary information to determine the application and to draft the planning permission and conditions appropriately;
  - they minimise the need for further submission of additional information during the life of the application which avoids unnecessary delay in the determination of applications;
  - they provide applicants with certainty as to the level of information required and the likely overall investment needed prior to the application submission; and
  - they ensure that the appropriate information is provided with an application to assist interested parties, including consultees, in their consideration of development proposals.
12. The consultation also includes examples from England and Wales in respect of approaches to validation disputes, whereby an applicant disagrees with the planning authority's determination as to an application being invalid.

### **Consultation Timeframe**

13. The Department is inviting response to its consultation by response to a series of questions by 6 January 2023.

### **Proposed Response**

14. Item 8c sets out the proposed response drafted by Planning officials for the Committee's consideration and approval.

## **RECOMMENDATION**

It is recommended that Council notes the content of this report and the attached letter and Consultation and approve the draft response to be issued to DfI.

Regional Planning Directorate



Department for

**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

Clarence Court  
10-18 Adelaide Street  
BELFAST  
BT2 8GB  
Tel: 0300 200 7830

7 November 2022

Dear Sir/Madam

## **CONSULTATION ON VALIDATION CHECKLISTS FOR PLANNING APPLICATIONS**

I am writing to inform you that the Department for Infrastructure has issued a public consultation paper on proposals to amend The Planning (General Development Procedure) Order (NI) 2015 to introduce validation checklists for planning applications submitted to councils and the Department.

A validation checklist will provide guidance to applicants about the level and type of information required to be submitted with a planning application. The requirements are intended to be proportionate to the nature and scale of the proposal. The consultation also seeks views on an associated dispute mechanism where an applicant **does not** agree with a planning authority's decision not to validate an application where it considers the information submitted to be incomplete.

Copies of the Consultation Paper may be downloaded from the website at: <https://www.infrastructure-ni.gov.uk/consultations/consultation-changes-improve-quality-planning-applications>

Alternatively you can request a copy by telephone: (028) 90540563, by text phone: (028) 90540642; by email: [Legislation.planning@infrastructure-ni.gov.uk](mailto:Legislation.planning@infrastructure-ni.gov.uk) or from the postal address below.

Validation Checklists for Planning Applications Consultation  
Regional Planning Directorate  
Room 1-08  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB



The closing date for the receipt of comments is 6 January 2023.

You have received this notification because your contact details are contained on a list of consultees used by Dfl Planning when issuing public consultations, surveys, questionnaires, etc.

If you no longer wish to receive these notifications, your details can be removed by notifying the department using the same contact details as above.

Yours sincerely

**ANGUS KERR**  
**Chief Planner**  
**& Director of Regional Planning**



Department for  
**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

## PUBLIC CONSULTATION

# PLANNING APPLICATION VALIDATION CHECKLISTS

Date: November 2022



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## Responding to this consultation document

### How to Respond

You are invited to send your views on this consultation document. Comments should reflect the structure of the document as far as possible with references to question numbers and paragraph numbers where relevant.

All responses should be made in writing and submitted to the Department no later than 6 January 2023 in one of the following ways:

1. **Where possible online via Citizen Space**
2. By e-mail to: **Legislation.Planning@infrastructure-ni.gov.uk**
3. By post to:  
**Public Consultation  
Planning Applications - Validation Checklists  
Regional Planning Directorate  
Room 1-08  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB**

In keeping with government policy on openness, responses to this consultation may be made available on request or published on the Department's website at:

[Planning Legislation | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#).

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:

[Planning Legislation | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#) or requested via the postal address, e-mail as above, by telephone on (028) 90540563 or by Text phone (028) 90540642.

This document is available in alternative formats. Please contact us using the contact details above to discuss your requirements.

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.

### **Confidentiality and Data Protection**

Information contained in your response may be made public by DfI. If you do not want all or part of your response made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your correspondence will be taken to apply only to information in your response for which confidentiality has been specifically requested. Information provided in response to this consultation, excluding personal information, may be subject to publication or disclosure in accordance with the access to information regimes (this is primarily the Freedom of Information Act 2000 (FOIA)).

The Department will process your personal data in line with the Department's Privacy Notice ([DfI Privacy | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#)). Personal data provided in response to this consultation will not be published. If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

As indicated above, the Department 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 Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraph below as it will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act 2000 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 or a call for evidence. The Department cannot automatically consider as confidential information supplied to it in response

to a consultation or a call for evidence. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, excluding information about your identity, should be made public or treated as confidential

## **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 A and B to this consultation paper. The Department believes that there would be no differential impact in rural areas or on rural communities.

The Department also 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.

# 1 Introduction

## Purpose of the consultation

- 1.1 This consultation forms part of the Department's Planning Improvement Programme aimed at creating an efficient, effective and equitable planning system trusted to deliver high quality, sustainable, inclusive and healthy places.
- 1.2 Earlier this year a series of reports highlighted the need to improve the quality of planning applications entering the planning system and the potential benefits this could bring in terms of improving processing times, the quality of decisions and in turn the delivery of development on the ground.
- 1.3 In addition, in January 2022 the Department published its first Review of the Implementation of the Planning Act (NI) 2011 (the Review) which contained 16 recommendations aimed at improving the planning system. The Review, which was informed by a wide range of stakeholders, recognised the importance of front-loading the planning application process to ensure applications are accompanied with all necessary supporting documentation needed to reach a decision at the point of submission.
- 1.4 The Review considered that validation checklists, which are part of the planning legislation framework in other jurisdictions, could be an important tool in improving the quality and completeness of planning applications coming into the system. The Department stated in the review report:  
***The Department will bring forward proposals to introduce 'validation checklists' and will seek to advance policy development at the earliest opportunity.***
- 1.5 Further reports on the Northern Ireland planning system by the Northern Ireland Audit Office (NIAO)<sup>1</sup> (February 2022), and the Public Accounts Committee (PAC) (March 2022)<sup>2</sup>, both referenced the need for, and benefits of, the introduction of validation checklists.
- 1.6 The NIAO stated during its work, that it encountered a strong consensus which consistently spoke about the "low bar" set for the information required to make a legally valid planning application in Northern Ireland.

<sup>1</sup> <https://www.niauditoffice.gov.uk/publications/planning-northern-ireland>

<sup>2</sup> <http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/pac/reports/planning-in-ni/public-accounts-committee---planning-in-northern-ireland.pdf>



- 1.7 The NIAO further reported there was a view that the criteria set out in the Planning Act was too narrowly prescribed and did not require key supporting documentation – such as flood risk assessments, environmental statements and transport assessments - to be provided with applications at the point of submission. This means that potentially ‘incomplete’ applications must be accepted by a planning authority (having met the minimum statutory requirements) and from which, the time period for statutory processing begins.
- 1.8 The NIAO believe this contributes to inefficiency and poor processing times in a number of ways:
- statutory consultees are often expected to provide a substantive response to planning applications where essential supporting information is missing;
  - consultees are spending time on poor quality or incomplete applications, and often have to be consulted multiple times on the same application; and
  - applications which arrive at the planning committee for a decision often have to be deferred to allow supporting information to be provided.
- 1.9 The NIAO considered if the planning system continues to accept poor quality applications, this creates a culture of speculative applications, whereby the system is being used to effectively “MOT” projects and determine the assessments required.
- 1.10 The PAC report published on 24 March 2022 stated that the Committee had significant concerns around the evidence it heard of widespread issues with the quality of applications entering and progressing through the planning system. It believes that allowing poor quality applications risks poor quality development, can “clog up” the system, and is designed to allow multiple amendments at every stage of the process, including right up to appeal.
- 1.11 The PAC considered that presently the planning system does not sufficiently encourage good quality applications and a robust mechanism is needed to stop poor quality applications entering the system in the first place. It recommended that the Department and local government implement immediate changes to improve the quality of applications entering the system and believe the introduction of validation checklists is one way to do this.

1.12 The PAC and NIAO reports cited the example of Belfast City Council's introduction of an Application Checklist on an administrative basis, and the subsequent improved performance it achieved against statutory targets.

## Current validation requirements

1.13 The format of an application for planning permission is provided for by section 40 of the Planning Act, while the detailed form and content of a planning application is specified in Article 3 of the Planning (General Development Procedure) Order (NI) 2015. Similar provision is made for applications for listed building consent via section 86 of the Planning Act, in tandem with Regulations 2 and 3 of the Planning (Listed Buildings) Regulations (NI) 2015.

1.14 These requirements set out what information or evidence must be submitted with applications for planning permission or other consents to make an application 'valid' before it can be considered by a planning authority. An application for planning permission is to contain:

- a written description of the development;
- an address or location of the land;
- the name and address of the applicant;
- a plan sufficient to identify the land;
- such other plans and drawings necessary to describe the development;
- a design/access statement, where required;
- a certificate under Article 9; and
- any fee.

1.15 Whenever a planning application becomes 'valid' the timeframe for processing the application commences. It is against this timeframe that performance is measured, and also for the purposes for appeals against 'non-determination' of an application. However, many applications when submitted do not contain all the information needed to determine them. This can result in further request(s) to the applicant which can subsequently lead to delays in processing with a consequent negative impact on resources and efficiency.

## Belfast City Council Approach

- 1.16 Following discussion with the Department in 2017/18, Belfast City Council introduced a pilot 'Application Checklist' on a non-statutory / administrative basis. The Application Checklist was in the form of a comprehensive guide for applicants which set out the information required to be submitted with any given type of planning application, according to its characteristics, scale and spatial constraints. Essentially based on the principle of validation checklists in England and Wales but without the statutory weight. The Council's Application Checklist was implemented in three phases:
- **Phase I** (January 2019) applied to certain large-scale local planning applications;
  - **Phase II** (May 2019) applied to certain major planning applications; and
  - **Phase III** (April 2021) applied to all planning applications excluding certain householder and other minor applications / consents.<sup>3</sup>
- 1.17 Following monitoring of the performance of the checklist regime, the Council concluded that since its introduction, the Application Checklist has been very positively received by consultees and customers who were less likely to submit an incomplete application. It also concluded that it had a significant positive impact on the Council's delivery of its Development Management service, and in most cases it allowed the Council to secure the additional supporting information upfront, resulting in less delays to the application process and less pressure on statutory and non-statutory consultees.

## 2. Planning Performance

- 2.1 The Department regularly publishes reports on the volume of planning applications received and decisions issued. They include geographic detail at Local Government District and Assembly Constituency levels.<sup>4</sup>
- 2.2 Whilst there has been an overall improvement in 2021/22 compared to 2020/21, there is no doubt that processing times for applications in the planning system, particularly for major and economically sensitive applications, is causing frustration with stakeholders,

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<sup>3</sup> <https://www.belfastcity.gov.uk/planning-and-building-control/planning/applying-for-planning-permission/application-checklist>

<sup>4</sup> <https://www.infrastructure-ni.gov.uk/articles/planning-activity-statistics>

given the impacts that this has on economic development and post-COVID recovery.

- 2.3 The Department acknowledges that it is important that everything possible is done to keep improving the timeframes for processing applications and to do so jointly with councils, statutory consultees and other stakeholders.

### **3 The proposal**

- 3.1. The purpose of this consultation is to seek your views on the Department's proposal to amend The Planning (General Development Procedure) Order (NI) 2015 to provide for the introduction of 'validation checklists' to address 'poor quality' or 'incomplete' applications entering the planning system.
- 3.2. A validation checklist will provide guidance to applicants about the level and type of information required to be submitted with a planning application. The requirements are intended to be proportionate to the nature and scale of the proposal.
- 3.3. The proposed amending Order would enable a planning authority (council or the Department) to prepare and publish 'checklists', above the current minimum statutory requirements which would remain unchanged, setting out the additional supporting information / evidence which would be required to accompany different types of planning application e.g. specific to its siting, the type of development proposed etc. There will be some flexibility for individual councils to take an approach that suits their local area and planning issues.
- 3.4. The legislation will require that an applicant needs to provide the information (on a validation checklist) where it is reasonable, having regard, in particular, to the nature and scale of the proposed development; and about a matter which it is reasonable to think will be a material consideration in the determination of the application.
- 3.5. The overall objective of such an amendment is to enhance the quality of applications entering the system, to front-load the decision making process, which should result in better processing times and more efficient consultee responses. Applications will not be considered valid until they comply with the required information contained in the published checklists and, therefore, the clock will not start ticking in terms of meeting statutory processing time targets. Ultimately, the requirement to ensure applications are

accompanied by all necessary information should result in overall improved planning performance.

3.6. The benefits of validation checklists are generally accepted as follows:

- they set out the scope of information required at the outset to ensure a 'fit for purpose' submission;
- they enable the planning authority to have all the necessary information to determine the application and to draft the planning permission and conditions appropriately;
- they minimise the need for further submission of additional information during the life of the application which avoids unnecessary delay in the determination of applications;
- they provide applicants with certainty as to the level of information required and the likely overall investment needed prior to the application submission; and
- they ensure that the appropriate information is provided with an application to assist interested parties, including consultees, in their consideration of development proposals.

## 4. Validation Disputes

4.1. Legislation in England & Wales also provides applicants with a right to dispute 'non-validated' applications – these are applications where there is a dispute between the applicant and the planning authority as to whether the application is 'valid'.

4.2. The Department is of the opinion that the introduction of validation checklists here would also require a similar 'validation dispute' mechanism, otherwise the only recourse available to an applicant would be judicial review proceedings. Including a dispute mechanism within the amending Order would avert the need for such challenges and would uphold an applicant's European Convention on Human Rights Article 6 right to a fair trial.

4.3. In England, where a local planning authority requires particulars or evidence to be included with an application and the applicant disputes the need for such evidence, the applicant can serve a notice on the planning authority saying why the additional information which has been requested is considered unreasonable and requesting that the requirement be waived. The planning authority can then notify the applicant that it either no longer requires the information, called "*a validation notice*" or one saying the information is still required, "*a non-validation notice*".

- 4.4. After the statutory time period for determining the application has expired from the date of the non-validation notice, the applicant can appeal against non-determination (this is basically the same procedure as if the application has been refused). The person considering such an appeal will consider both the dispute regarding 'validity' and the merits of the application itself (although if it is decided that the local planning authority was correct in determining that the application was invalid, the appeal will be automatically dismissed). The procedure for the determination of validation appeals is set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015.<sup>5</sup>
- 4.5. In contrast, legislation in Wales provides for a 'stand-alone' dispute mechanism which deals solely with consideration of the information requirements. Where the planning authority thinks the application (or anything accompanying it) does not comply with a validation requirement, the authority must give the applicant notice to that effect. The applicant can either provide the information, or appeal the non-validation of the application within two weeks from the date of the notice. The procedure for the determination of validation appeals made to the Welsh Minsters (under section 62ZB of the Town and Country Planning Act 1990) is set out in The Town and Country Planning (Validation Appeals Procedure) (Wales) Regulations 2016.<sup>6</sup>
- 4.6. Evidence from Wales demonstrates that the number of 'non-validation' appeals determined by the Planning Inspectorate there has averaged 6 per year from 2016-2021.<sup>7</sup>

## 5. SUMMARY

- 5.1. In summary, the Department's overall objective for the proposed amendment is to provide the statutory basis for a planning authority to be able to prepare and publish a validation check list to address 'poor quality' or 'incomplete' applications entering the planning system. Once in place, the Department expects that this will improve the quality of applications coming into the system and overcome avoidable delays in the processing of applications for planning permission by front-loading applications with all the evidence and information deemed necessary for their determination. This approach should also lead to improved statutory consultee response times, reduce the need for re-consultations and improve the time taken to reach planning decisions.

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<sup>5</sup> [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>6</sup> <https://www.legislation.gov.uk/wsi/2016/60/made>

<sup>7</sup> <https://gov.wales/sites/default/files/publications/2021-04/non-validation-appeals-register.pdf>

## Consultation Questions

### Question 1:

Do you agree with the proposal to provide a statutory basis for planning authorities to introduce a Validation Checklist for planning applications?

Yes  No

(Please provide reasons for your answer.)

### Question 2:

Do you agree that a 'dispute mechanism' should be available to applicants who disagree with the information/evidence requirements to be submitted with an application?

Yes  No

(Please provides reasons for you answer.)

If you answered 'Yes' to Question 2, please go to Question 3.

### Question 3:

Would you prefer a dispute mechanism linked to 'non-determination' of the application as in England (see para 4.3-4.4 above) or a 'stand-alone' approach as in Wales (see para 4.5 above)?

'Non-determination' dispute  'Stand-Alone' dispute

(Please provides reasons for you answer.)

**Question 4:**

From the list below, please select the category of respondent most appropriate to you.

Business and development interests

Resident/community groups/voluntary organisations

Environment and heritage groups

Political party/elected representative

Council

Statutory consultee

Applicant

Architect/Planning consultancy/Agent

Other



## ANNEX A

### DEPARTMENT FOR INFRASTRUCTURE

#### SECTION 75 EQUALITY OF OPPORTUNITY SCREENING ANALYSIS FORM

The purpose of this form is 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 quarterly consultation on the outcome of the screening exercise, and will be referenced in the biannual review of progress made to the Minister and in the Annual Report to the Equality Commission.

Further advice on completion of this form and the screening process including relevant contact information can be accessed via the Department for Infrastructure (Dfi) Intranet site.

#### HUMAN RIGHTS ACT

When considering the impact of this policy you should also consider if there would be any Human Rights implications. Guidance is at:

- <https://www.executiveoffice-ni.gov.uk/articles/human-rights-and-public-authorities>

Should this be appropriate you will need to complete a Human Rights Impact Assessment. A template is at:

- <https://www.executiveoffice-ni.gov.uk/publications/human-rights-impact-assessment-proforma>

**Don't forget to Rural Proof.**

## Part 1. Policy scoping

The first stage of the screening process involves scoping the policy under consideration. The purpose of policy scoping is to help prepare the background and context and set out the aims and objectives for the policy, being screened. At this stage, scoping the policy will help identify potential constraints as well as opportunities and will help the policy maker work through the screening process on a step by step basis.

Public authorities should remember that the Section 75 statutory duties apply to internal policies (relating to people who work for the authority), as well as external policies (relating to those who are, or could be, served by the authority).

### Information about the policy

Name of the policy

Planning Applications – Validation Checklists

Is this an existing, revised or a new policy?

New Policy

What is it trying to achieve? (intended aims/outcomes)

The aim of the policy is to bring forward an amendment to Article 3 of the Planning (General Development Procedure) Order (NI) 2015 (GDPO) to provide councils and the Department with the authority to prepare and publish “validation checklists”, to address ‘poor quality’ or ‘incomplete’ applications entering the planning system. A Validation Checklist provides guidance about the level and type of information required to be submitted with a planning application, in order to provide a degree of certainty and clarity to assist applicants. The requirements should be proportionate to the nature and scale of the development proposal.

The overall outcome of the proposed amendment is to overcome delays in the processing of applications for planning permission, by front-loading applications with all the evidence and information deemed necessary to determine the applications. This should lead to improved statutory consultee response times, (that is, the time taken by, for example: Roads, Water and Environmental Health to comment on a development proposal), reduce the need to re-consult statutory consultees, and improve the time taken to reach decisions. An associated dispute mechanism may also prove necessary which will also be consulted upon. This will provide an applicant with a means in which to dispute a decision by a planning authority not to validate a planning application where it determines that the information provided is insufficient or incomplete.

Are there any Section 75 categories which might be expected to benefit from the intended policy?

If so, explain how.

No

Who initiated or wrote the policy?

The Department for Infrastructure (the Department)

Who owns and who implements the policy?

The Department for Infrastructure / councils.

### Background

The performance of the planning system in processing planning applications has been highlighted through various examinations/findings of the NI planning system: the Northern Ireland Audit Office (NIAO)<sup>8</sup> Report on 1 February 2022; and the Public Accounts Committee (PAC)<sup>9</sup> Report on 24 March 2022.

The Department regularly publishes statistics on planning performance<sup>10</sup>. Whilst there has been an overall improvement in 2021/22 compared to 2020/21, there is no doubt that processing times for applications in the planning system, particularly for major and economically sensitive applications, is causing frustration among stakeholders, given the impacts that this has on economic development and post COVID recovery.

The Department acknowledges that it is important that everything possible is done to keep improving the timeframes for processing applications and to do so jointly with councils, statutory consultees and other stakeholders.

Alongside the external reports mentioned above, the Department published its first report on the Review of the Implementation of the Planning Act (NI) 2011

<sup>8</sup> <https://www.niauditoffice.gov.uk/publications/planning-northern-ireland>

<sup>9</sup> <http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/pac/reports/planning-in-ni/public-accounts-committee---planning-in-northern-ireland.pdf>

<sup>10</sup> <https://www.infrastructure-ni.gov.uk/articles/planning-activity-statistics>

(the review report) in January 2022 which, contained 16 recommendations aimed at improving the planning system<sup>11</sup>.

This proposal forms part of the Department's ongoing planning improvement agenda and flows from recommendation PT3-5 set out in the review report dealing with actions to improve the quality and completeness of planning applications:

**Recommendation PT3-5 of the Review Report: *The Department will bring forward proposals to introduce 'validation checklists' and will seek to advance policy development at the earliest opportunity.***

### Implementation factors

Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision?

- Financial
- Legislative

The introduction of validation checklists to planning applications will result in extra **up-front** costs to applicants, in that it will require all necessary evidence and information needed to determine the proposal, to accompany the application at the time of its submission. This would be in contrast to councils seeking the required information at a date after the application has been made, usually, (but not exclusively) prompted by responses from statutory consultees, leading to delays in processing.

Amendment to Article 3 of the Planning (General Development Procedure) Order (NI) 2015.

### Main stakeholders affected

Who are the internal and external stakeholders (actual or potential) that the policy will impact upon? (please delete as appropriate)

- staff
- service users

other public sector organisations

<sup>11</sup> <https://www.infrastructure-ni.gov.uk/publications/review-planning-act-ni-2011-report>

### Other policies with a bearing on this policy

- None
- Not applicable

## Available evidence

Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data. The Commission has produced this guide to [signpost to S75 data](#).

What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

**Religious belief:** This proposal forms part of the Department's ongoing planning improvement agenda and flows from recommendation PT3-5 set out in the review report dealing with actions to improve the quality and completeness of planning applications. It also responds to the findings set out in both the NIAO and PAC Reports published earlier in 2022.

Recommendation PT3-5 of the Review Report: *"The Department will bring forward proposals to introduce 'validation checklists' and will seek to advance policy development at the earliest opportunity."*

Such legislative provisions have been successfully introduced in other jurisdictions for a number of years (England & Wales), with further advice and guidance on the local information requirements for planning applications also set out in the National Planning Policy Framework<sup>12</sup> (England).

There is no evidence to suggest that the amendment proposed to the GDPO of itself or generally, is more or less likely to adversely impact upon any s.75 group(s). The requirements are to be kept to the minimum needed to make decisions, and are usually reviewed at least every two years. Planning authorities are also only to request supporting information that is relevant, necessary and material to the application in question.

The requirement to front-load the application process with the information/evidence needed to reach a sound decision will apply equally to every applicant, and will be specific to the type of application made, and the nature, scale and location of the proposed development. Each and every planning application is considered on its own individual merits, and the potential equality impacts will form part of that decision-making process.

The Department does not therefore envisage any significant, adverse or unequal impact of this policy upon any s.75 category.

<sup>12</sup> <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

**Political Opinion:** As above

**Racial Group:** As above

**Age:** As above

**Marital Status:** As above

**Sexual Orientation:** As above

**Men & Women generally:** As above

**Disability:** As above

**Dependants:** As above

## Needs, experiences and priorities

Taking into account the information referred to above, what are the different needs, experiences and priorities of each of the following categories, in relation to the particular policy/decision?

Specify details of the needs, experiences and priorities for each of the Section 75 categories below:

**Religious belief:** None – no equality issues identified as the information requirements i.e. in the Validation Checklists, to be published by planning authorities will be applicable to all those making a planning application.

**Political Opinion:** As above

**Racial Group:** As above

**Age:** As above

**Marital status:** As above

**Sexual orientation:** As above

**Men and Women Generally:** As above

**Disability:** As above

**Dependants:** As above

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## **Part 2. Screening questions**

### **Introduction**

In making a decision as to whether or not there is a need to carry out an equality impact assessment, the public authority should consider its answers to the questions 1-4 which are given on pages 66-68 of this Guide.

If the public authority's conclusion is **none** in respect of all of the Section 75 equality of opportunity and/or good relations categories, then the public authority may decide to screen the policy out. If a policy is 'screened out' as having no relevance to equality of opportunity or good relations, a public authority should give details of the reasons for the decision taken.

If the public authority's conclusion is **major** in respect of one or more of the Section 75 equality of opportunity and/or good relations categories, then consideration should be given to subjecting the policy to the equality impact assessment procedure.

If the public authority's conclusion is **minor** in respect of one or more of the Section 75 equality categories and/or good relations categories, then consideration should still be given to proceeding with an equality impact assessment, or to:

- measures to mitigate the adverse impact; or
- the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

### **In favour of a 'major' impact**

- a) The policy is significant in terms of its strategic importance;
- b) Potential equality impacts are unknown, because, for example, there is insufficient data upon which to make an assessment or because they are complex, and it would be appropriate to conduct an equality impact assessment in order to better assess them;
- c) Potential equality and/or good relations impacts are likely to be adverse or are likely to be experienced disproportionately by groups of people including those who are marginalised or disadvantaged;
- d) Further assessment offers a valuable way to examine the evidence and develop recommendations in respect of a policy about which there are concerns amongst affected individuals and representative groups, for example in respect of multiple identities;
- e) The policy is likely to be challenged by way of judicial review;

- f) The policy is significant in terms of expenditure.

### **In favour of 'minor' impact**

- a) The policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible;
- b) The policy, or certain proposals within it, are potentially unlawfully discriminatory, but this possibility can readily and easily be eliminated by making appropriate changes to the policy or by adopting appropriate mitigating measures;
- c) Any asymmetrical equality impacts caused by the policy are intentional because they are specifically designed to promote equality of opportunity for particular groups of disadvantaged people;
- d) By amending the policy there are better opportunities to better promote equality of opportunity and/or good relations.

### **In favour of none**

- a) The policy has no relevance to equality of opportunity or good relations.
- b) The policy is purely technical in nature and will have no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.

Taking into account the evidence presented above, consider and comment on the likely impact on equality of opportunity and good relations for those affected by this policy, in any way, for each of the equality and good relations categories, by applying the screening questions given overleaf and indicate the level of impact on the group i.e. minor, major or none.

## Screening questions

### 1. What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories?

Please provide details of the likely policy impacts and determine the level of impact for each S75 categories below i.e. either minor, major or none.

Details of the likely policy impacts on **Religious belief**: None identified. The policy proposal will apply equally to all planning applications and not impact on equality of opportunity for applicants.

What is the level of impact? None

Details of the likely policy impacts on **Political Opinion**: As above

What is the level of impact? None

Details of the likely policy impacts on **Racial Group**: As above

What is the level of impact? None

Details of the likely policy impacts on **Age**: As above

What is the level of impact? None

Details of the likely policy impacts on **Marital Status**: As above

What is the level of impact? None

Details of the likely policy impacts on **Sexual Orientation**: As above

What is the level of impact? None

Details of the likely policy impacts on **Men and Women**: As above

What is the level of impact? None

Details of the likely policy impacts on **Disability**: As above

What is the level of impact? None

Details of the likely policy impacts on **Dependants**: As above

What is the level of impact? None

### 2. Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories? Yes/No

Detail opportunities of how this policy could promote equality of opportunity for people within each of the Section 75 Categories below:

**Religious Belief - No**

The proposed policy will apply equally to all users of the planning system. There is no opportunity to better promote equality of opportunity for applicants.

**Political Opinion – No, as above**

**Racial Group – No, as above**

**Age – No, as above**

**Marital Status – No, as above**

**Sexual Orientation – No, as above**

**Men and Women generally - No, as above**

**Disability - No, as above**

**Dependants No, as above**

3. **To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group?**

Please provide details of the likely policy impact and determine the level of impact for each of the categories below i.e. either minor, major or none.

Details of the likely policy impacts on **Religious belief**: None. The Policy is introducing a Validation checklist for planning applications in order to improve the planning process.

What is the level of impact? None

Details of the likely policy impacts on **Political Opinion**: None. The Policy is introducing a Validation checklist for planning applications in order to improve the planning process.

What is the level of impact? None

Details of the likely policy impacts on **Racial Group**: None. The Policy is introducing a Validation checklist for planning applications in order to improve the planning process.

What is the level of impact? None

4. **Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?**

Detail opportunities of how this policy could better promote good relations for people within each of the Section 75 Categories below:

**Religious Belief** – No - The Policy is introducing a Validation checklist for planning applications in order to improve the planning process. Effects people of all religious beliefs equally.

**Political Opinion** – No - The Policy is introducing a Validation checklist for planning applications in order to improve the planning process. Effects people of all political opinions equally.

**Racial Group** - – No - The Policy is introducing a Validation checklist for planning applications in order to improve the planning process. Effects people of all racial groups equally.

## Additional considerations

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### Multiple identity

Generally speaking, people can fall into more than one Section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities?

*(For example; disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people).*

N/A

Provide details of data on the impact of the policy on people with multiple identities. Specify relevant Section 75 categories concerned.

There is no evidence that the policy has any impact on people with multiple identities.

### Part 3. Screening decision

If the decision is not to conduct an equality impact assessment, please provide details of the reasons.

The Department does not envisage or consider that there are likely to be any specific significant negative, adverse or unequal impacts associated with this policy. The proposed amendment to the Planning (General Development Procedure) Order (NI) 2015 will apply equally to all users of the planning system and there is no evidence that it will have any significant impact in terms of equality of opportunity or good relations.

An associated dispute mechanism would also provide a level of assurance that the information requirements are proportionate and material to the proposed application, and would avert the need for judicial challenges and would also uphold an applicant's European Court of Human Rights Article 6 right to a fair trial.

In line with the Equality Commission NI guidance "regular and ongoing monitoring and screening of each major project will be undertaken to examine any equality impacts".

If the decision is not to conduct an equality impact assessment the public authority should consider if the policy should be mitigated or an alternative policy be introduced - please provide details.

As above

If the decision is to subject the policy to an equality impact assessment, please provide details of the reasons.

*Not applicable*

All public authorities' equality schemes must state the authority's arrangements for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity. The Commission recommends screening and equality impact assessment as the tools to be utilised for such assessments. Further advice on equality impact assessment may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

## Mitigation

When the public authority concludes that the likely impact is 'minor' and an equality impact assessment is not to be conducted, the public authority may consider mitigation to lessen the severity of any equality impact, or the introduction of an alternative policy to better promote equality of opportunity or good relations.

Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?

If so, **give the reasons** to support your decision, together with the proposed changes/amendments or alternative policy. Not applicable

## Timetabling and prioritising

Factors to be considered in timetabling and prioritising policies for equality impact assessment.

If the policy has been '**screened in**' for equality impact assessment, then please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3, with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

**Priority criterion** [Author pick 1 2 or 3 if a full EQIA is to take place]

Effect on equality of opportunity and good relations	<b>Rating 1</b>
Social need	<b>Rating 1</b>
Effect on people's daily lives	<b>Rating 1</b>
Relevance to a public authority's functions	<b>Rating 1</b>

Note: The Total Rating Score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the public authority in timetabling. Details of the Public Authority's Equality Impact Assessment Timetable should be included in the quarterly Screening Report.

Is the policy affected by timetables established by other relevant public authorities? No

If yes, please provide details.

## Part 4. Monitoring



Public authorities should consider the guidance contained in the Commission's Monitoring Guidance for Use by Public Authorities (July 2007).

The Commission recommends that where the policy has been amended or an alternative policy introduced, the public authority should monitor more broadly than for adverse impact (See Benefits, P.9-10, paras 2.13 – 2.20 of the Monitoring Guidance).

Effective monitoring will help the public authority identify any future adverse impact arising from the policy which may lead the public authority to conduct an equality impact assessment, as well as help with future planning and policy development.

## Part 5 - Approval and authorisation

Screened by: Tom Mathews  
Position/Job Title: SPTO  
Date: 27 October 2022

Approved by: Irene Kennedy  
Position/Job Title: Grade 7  
Date: 27 October 2022

Note: A copy of the Screening Template, for each policy screened should be 'signed off' and approved by a senior manager responsible for the policy, made easily accessible on the public authority's website as soon as possible following completion and made available on request.

### For Equality Team Completion:

Date Received:	25 October 2022
Amendments Requested:	Yes
Date Returned to Business Area:	28 October 2022
Date Final Version Received / Confirmed:	2 November 2022
Date Published on DfI's Section 75 webpage:	2 November 2022

## ANNEX B

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<b>Title:</b> Planning Applications – Validation Checklists	<b>Regulatory Impact Assessment (RIA)</b>	
	<b>Date:</b> 2 November 2022	
	<b>Type of measure:</b> Secondary Legislation	
<b>Lead department or agency:</b> Department for Infrastructure	<b>Stage:</b> Development	
	<b>Source of intervention:</b> Domestic NI	
<b>Other departments or agencies:</b> N/A	<b>Contact details:</b> Irene Kennedy	
	Regional Planning Directorate Room 1-01 Clarence Court 10-18 Adelaide Street Belfast BT2 8GB	

## Summary Intervention and Options

<b>What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)</b>	
<p>The performance of the planning system in processing planning applications has been highlighted through various examinations/findings by the Northern Ireland Audit Office (NIAO), and the Public Accounts Committee in 2022. A number of recommendations from the first Report on the Implementation of the Planning Act 2011 (Jan 2022), also committed to developing policy aimed at improving performance. Poor performance has in part, been attributed to poor quality or incomplete applications entering the system. It is proposed to empower planning authorities to prepare and publish planning validation checklists to address the matter. This will ensure that applications entering the system will be required, from the outset, to include all information/evidence needed to reach a sound decision. The requirements will be proportionate to the nature and scale of the development proposal.</p>	
<b>What are the policy objectives and the intended effects? (7 lines maximum)</b>	
<p>The overall objective and outcome of the proposed policy is to overcome delays in the processing of applications for planning permission and other consents, by <b>front-loading</b> applications with all the evidence and information deemed necessary to determine the applications. This approach should also lead to improved statutory consultee response times, and reduce the need for re-consultations, and improve the time to reach decisions. This will be achieved by way of an amendment to Article 3 of the Planning (General Development Procedure) Order (NI) 2015 (GDPO). An associated dispute mechanism may also prove necessary which, will also be consulted upon.</p>	
<b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)</b>	
<p>There were 3 options considered for planning application requirements:</p> <ul style="list-style-type: none"> <li>• Option 1 – Do nothing and maintain current (minimum) application requirements (i.e. maintain the status quo);</li> <li>• Option 2 – Encourage introduction of validation checklists on a non-statutory, administrative basis; and</li> <li>• Option 3 – Place validation checklists on a legislative basis by way of amendment to the GDPO 2015. The preferred option.</li> </ul>	
<b>Will the policy be reviewed?</b> It will be reviewed	<b>If applicable, set review date:</b> 2025

Cost of Preferred (or more likely) Option		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m
£0	£0	£0
<b>Does Implementation go beyond minimum EU requirements?</b>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<b>Is this measure likely to impact on trade and investment?</b>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

Are any of these organisations in scope?	<b>Micro</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<b>Small</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<b>Medium</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<b>Large</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
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**The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.**

Approved by:                      Date:

## Summary: Analysis and Evidence Policy Option 1

Description: Do nothing and maintain current (minimum) application requirements.

### ECONOMIC ASSESSMENT (Option 1)

Costs (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
<b>Best Estimate</b>				
<b>Description and scale of key monetised costs by 'main affected groups'</b> Maximum 5 lines There are no new monetised costs with this option, and a planning application will only need to include the current minimum requirements, set out under Art.3 of the GDPO, together with the appropriate planning fee. Further information/evidence requirements (where necessary), will be sought from the applicant after validation and during processing.				
<b>Other key non-monetised costs by 'main affected groups'</b> Maximum 5 lines To maintain the current position would not advance a recommendation in the Review Report; findings from the NIAO/ PAC reports and likely draw criticism from many stakeholders in the planning system, particularly local councils. Potentially incomplete or poor quality planning applications would continue to be submitted, causing delay in processing times and adversely impacting planning performance.				
Benefits (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
<b>Best Estimate</b>				
<b>Description and scale of key monetised benefits by 'main affected groups'</b> Maximum 5 lines It is difficult to measure / quantify any monetary benefits or effects of maintaining the current provision under the GDPO. Under this option, the existing regime will continue but without the benefit of potential amendments which otherwise may have been introduced.				
<b>Other key non-monetised benefits by 'main affected groups'</b> Maximum 5 lines Maintaining the existing application requirements, while generally beneficial to potential applicants, will overall be disadvantageous to the planning system as a whole, statutory consultee response times and council performance, in comparison to other jurisdictions where validation checklists have already been implemented.				
<b>Key Assumptions, Sensitivities, Risks</b> Maximum 5 lines It is not unreasonable to assume that maintaining the existing application requirements would be disadvantageous overall to local business in that, unnecessary delays in the processing of planning applications would continue affecting overall performance.				

**BUSINESS ASSESSMENT (Option 1)**

Direct Impact on business (Equivalent Annual) £m			
Costs:	Benefits:	Net:	
			Cannot be quantified monetarily but is assumed it would be disadvantageous in comparison to other jurisdictions where validation checklists are in place.

**Cross Border Issues (Option 1)**

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines**  
 The current minimum application requirements set out in Art.3 of the GDPO 2015, and s.40 of the Planning Act are similar to those in other jurisdictions. However, other jurisdictions have introduced validation checklists for some time now. The option to maintain only current minimum requirements here will mean that locally, NI will not keep pace with nor take account of changes / approaches elsewhere.

**Summary: Analysis and Evidence**

**Policy Option 2**

Description: Encourage an administrative approach to validation check-lists

**ECONOMIC ASSESSMENT (Option 2)**

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Cost
	(constant price)	Years		
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
<b>Best Estimate</b>				

**Description and scale of key monetised costs by 'main affected groups' Maximum 5 lines**  
 The introduction of validation check-lists, on a **non-legislative / administrative** approach would likely improve the quality of applications, and could result in improved processing times, consultee response times, and overall planning performance. Evidence from Belfast City Council's pilot exercise, undertaken between 2020/21 in this regard supports this conclusion. Councils would bear the costs with this option, however, without statutory weight, applicants would not be bound to provide the additional information/evidence sought. In such circumstances, existing minimum information set out under Art.3 of the GDPO, together with the appropriate planning fee would only be necessary. Further information/evidence requirements (where necessary), will be sought from the applicant after validation, and during processing.

<p><b>Other key non-monetised costs by 'main affected groups'</b> Maximum 5 lines                  This option would not advance a recommendation in the Review Report; nor develop findings from the NIAO/ PAC reports and likely draw criticism from many stakeholders in the planning system, particularly local councils. Potentially incomplete or poor quality planning applications would continue to be submitted, causing delay in processing times and adversely impacting planning performance.                  Not to undertake to improve the quality and completeness of planning applications does not fulfil a departmental commitment, and will not ensure that the legislation remains appropriate to the local context. Changes (if any) to similar legislation in other jurisdictions will not be factored in to any assessment.</p>				
Benefits (£m)	Total Transitional (Policy) (constant price)	Years	Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
<b>Best Estimate</b>				
<p><b>Description and scale of key monetised benefits by 'main affected groups'</b> Maximum 5 lines                  It is difficult to measure / quantify any monetary benefits or effects of this option. Under this option, potential enhanced information/evidence would be sought, but without the benefit of a legislative footing would require the willing participation of applicants to the planning system.</p>				
<p><b>Other key non-monetised benefits by 'main affected groups'</b> Maximum 5 lines                  The introduction of validation check-lists on a <b>non-legislative / administrative</b> approach would likely improve the quality of applications, and could result in improved processing times, consultee response times, and overall planning performance. This option, while generally beneficial to the planning system, will overall be disadvantageous in comparison to other jurisdictions where statutory validation checklists have already been successfully implemented.</p>				
<p><b>Key Assumptions, Sensitivities, Risks</b> Maximum 5 lines                  It is not unreasonable to assume that a voluntary approach to the introduction of validation checklists could benefit the planning system and decision-making, however without a statutory footing it requires the active participation of all applicants which, is not guaranteed.</p>				

**BUSINESS ASSESSMENT (Option 2)**

Direct Impact on business (Equivalent Annual) £m				
Costs:	Benefits:	Net:		Cannot be quantified monetarily but is assumed it would be disadvantageous in comparison to other jurisdictions where statutory validation checklists are in place.

**Cross Border Issues (Option 2)**

<p><b>How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland)</b> Maximum 3 lines                  The current minimum application requirements set out in Art.3 of the GDPO 2015, and s.40 of the Planning Act are similar to those in other jurisdictions. However, other jurisdictions have introduced statutory validation checklists for some time now. This option would mean that locally, NI will not keep pace with nor take account of changes / approaches elsewhere.</p>
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## Summary: Analysis and Evidence Policy Option 3

Description: Legislate for validation checklists

### ECONOMIC ASSESSMENT (Option 3)

Costs (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				
<p><b>Description and scale of key monetised costs by 'main affected groups'</b> Maximum 5 lines                      The introduction of validation checklists on a <b>legislative</b> basis would improve the quality of planning applications entering the system, resulting in improved application processing times, consultee response times, and the overall performance within the planning system. Planning authorities would bear the costs with this option, of preparing and publishing validation checklists. With statutory weight however, applicants would be bound to provide the additional information/evidence sought from the outset, without which, applications would be deemed invalid.</p>				
<p><b>Other key non-monetised costs by 'main affected groups'</b> Maximum 5 lines                      There are no appreciable non-monetised costs associated with this option. Potentially incomplete or poor quality planning applications would be deemed invalid and not entered into the planning system.</p>				
Benefits (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				
<p><b>Description and scale of key monetised benefits by 'main affected groups'</b> Maximum 5 lines                      It is difficult to measure / quantify the monetary benefits or effects of this option. A statutory requirement empowering councils to set out the additional supporting information / evidence to accompany different types of planning application, and specific to particular types of development would enhance the quality of applications, front-loads the application process, and should result in better processing times, and consultee response times. This ultimately should also result in improved planning performance giving greater certainty to applicants and other stakeholders.</p>				
<p><b>Other key non-monetised benefits by 'main affected groups'</b> Maximum 5 lines                      As above.</p>				
<p><b>Key Assumptions, Sensitivities, Risks</b> Maximum 5 lines                      There are no appreciable sensitivities or risks associated with this option.</p>				

**BUSINESS ASSESSMENT (Option 3)**

Direct Impact on business (Equivalent Annual) £m			
Costs:	Benefits:	Net:	
			Cannot be quantified monetarily but is it would bring the approach in NI in to line with other jurisdictions where statutory validation checklists are in place.

**Cross Border Issues (Option 3)**

<p><b>How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines</b></p> <p>The current minimum application requirements set out in Art.3 of the GDPO 2015 are similar to those in other jurisdictions. However, other jurisdictions have introduced statutory validation checklists for some time now. This option would mean that locally, NI will keep pace with approaches elsewhere.</p>
--

**Evidence Base**

The performance of the planning system in processing planning applications has been highlighted through various examinations/findings of the NI planning system by the Northern Ireland Audit Office (NIAO), and the Public Accounts Committee in 2022. A number of recommendations from the first Report on the Implementation of the Planning Act 2011 (Jan 2022), also committed to developing policy aimed at improving performance. Poor performance has in part, been attributed to poor quality or incomplete applications entering the system.

It is proposed to empower planning authorities to prepare and publish planning validation checklists to address the matter. This will ensure that applications entering the system will be required, from the outset, to include all information/evidence needed to reach a sound decision. The requirements will be proportionate to the nature and scale of the development proposal. An associated dispute mechanism may also prove necessary which will also be consulted upon.

Legislating for validation check-lists (similar to that in other jurisdictions) advances a recommendation from the Review Report, and takes into account the findings from the NIAO and PAC reports. Evidence from Belfast City Council's pilot exercise further supports legislative change in this regard. A statutory requirement empowering planning authorities to set out the additional supporting information / evidence to accompany different types of planning application, and specific to particular types of development would enhance the quality of applications, front-loads the application process, and should result in better processing times, and consultee response times. This ultimately should also result in improved planning performance across all the planning system. By definition, legislative provisions would also enable a planning authority to reject / invalidate an incomplete planning application, and to request the applicant submit the requisite information. Any failure to meet such requirements could result in the application and fee being returned. This would ensure that such applications do not affect processing times nor overall planning performance.



## Options

Three options were considered:

Option 1 – Do nothing and maintain current planning application requirements;

Option 2 – Encourage an administrative approach to validation check-lists across all planning authorities.

Option 3 - Legislate for validation check-lists across all planning authorities

### **Belfast City Council Pilot Project**

Belfast City Council (BCC) review of its implementation of validation checklists on an administrative basis identified that one of the most significant contributing factors in delaying the planning application process was the poor quality of applications on submission. In particular, applications have often been "incomplete" and not supported by the information required by planning policy and best practice. This means that applications cannot be given a positive determination at the first time of asking and there are inevitably delays as the information is sought and finally submitted. This also places unnecessary burdens on already stretched statutory consultees, wasting their time and resources on reviewing incomplete applications.

BCC Planning Service published its *Application Checklist in 2018*, which provided guidance to customers on which information they need to submit with their application, depending on its characteristics, scale and spatial constraints. Information requirements were divided into two categories: "Basic Requirements" – necessary to make the application valid in accordance with planning legislation; and "Other supporting information" – required by planning policy and best practice so that the application can be fully considered. Applications were checked on receipt and if information was missing then the applicant was requested to provide it within 14 days otherwise the application was returned along with the planning fee. Applicants were asked to resubmit the application only when all the information was available.

Feedback from customers was generally very positive. Agents and architects saw significant value in the Council publishing a list of documents required with planning applications. It assisted them when pricing work and justifying to their client which information is needed. Agents said that they are now less likely to submit an incomplete application to BCC because they know the Council will send it back. Constructive feedback includes the need for officers to apply the Application Checklist proportionately and that it must not be used as a simple administrative tick-list – information was only required where it is fundamentally needed.

Feedback from consultees and staff has also been positive. Statutory consultees were very supportive of the Application Checklist as a means to frontload information and improve the quality of applications, thereby making the assessment process much more efficient. They unanimously support legislative change to improve information requirements at the beginning of the process.

BCC concluded that the Application Checklist has been a significant success in improving the quality of planning applications. It has had a marked positive effect on determination times and performance. It has also begun to shift the culture and attitude of customers towards submitting much better quality planning application at the outset of the process.

BCCs review was shared with the Department for Infrastructure in support of its case for a change to planning legislation, aimed at improving information requirements on submission of planning applications

**Preferred Option**

Overall, Option 3 is considered to be the preferred option as it would meet the policy objectives outlined above.

**Benefits for planning authorities: reduced number / processing of planning applications**

The benefits of preparing validation checklists are that it:

- scopes the information required at the outset to ensure a 'fit for purpose' submission;
- enables the planning authority to have all the necessary information to determine the application and to draft the planning permission and conditions appropriately;
- minimises the need for further submission of additional information during the life of the application which avoids any unnecessary delays in the determination of applications;
- provides applicants with certainty as to the level of information required and the likely overall cost of the application submission; and
- ensures that the appropriate information is provided with an application to assist interested parties, including consultees, in their consideration of development proposals.

These benefits will result in reduced processing times and improved planning performance, together with improved statutory consultee response times.

**Equality Impact Assessment**

The Department's initial screening for equality impacts considers that the proposals will not discriminate unlawfully, unfairly or unjustifiably against any sections of the community specified in Section 75 of the Northern Ireland Act 1998.

**Impact on businesses**

There may be positive impacts for businesses from quicker decision-making on planning applications.

**Rural proofing**

The Department considers that the proposals would have no differential or adverse impact in rural areas or on rural communities.

## Item 8c

## Draft Response to DFI Consultation on Planning Application Validation Checklists

Consultation Questions	ANDBC Response
<p><b>1: Do you agree with the proposal to provide a statutory basis for planning authorities to introduce a Validation Checklist for planning applications? Yes / No (Please provide reasons for your answer.)</b></p>	<p>Response: YES</p> <p>The Council accepts that the current statutory requirements for making an application valid are set too low, and too much time is wasted throughout application processing by requests for information/studies/assessments that ought to have been submitted within the initial application to effectively 'front-load' the system. In a process where the clock is not stopped in response to requests from the planning authority for requisite/further information, the introduction of a statutory basis for councils' own Validation Checklists will facilitate and hopefully encourage submission of better-quality applications, which will make the system more efficient, faster and provide more certainty for developers and investors and applicants.</p>
<p><b>2: Do you agree that a 'dispute mechanism' should be available to applicants who disagree with the information/evidence requirements to be submitted with an application? Yes / No (Please provide reasons for you answer.)</b></p>	<p>Response: YES</p> <p>It is considered that a formal process is required to be put in place to avoid unreasonable and prolonged wrangling between planning officers and agents over such disagreements.</p>
<p><b>3: Would you prefer a dispute mechanism linked to 'non-determination' of the application as in England (see para 4.3-4.4 above) or a 'stand-alone' approach as in Wales (see para 4.5 above)? 'Non-determination' dispute / 'Stand-Alone' dispute (Please provides reasons for you answer.)</b></p>	<p>It is considered, in light of the information provided, that the 'stand alone' approach from Wales is preferable. This approach appears to provide a quicker mechanism for applicants to ascertain an outcome early in processing, without having paid the application fee (or having it returned with the 'invalid' application).</p> <p>There is concern that if the English approach were adopted that this will place unnecessary burden on the appellate body and the Council, which are already under pressure, and equally, place more of a financial burden on the developer/agent side whereby if the appellate body agrees with the</p>

	<p>Council regards an application being invalid, then the appeal is automatically dismissed, and the application must be submitted again to the planning authority (with a further fee). The Council queries whether, in order to adopt this approach, further modifications would be required to Section 46 of the Planning Act to set out that the Council may decline to accept a subsequent application if the requisite information, as confirmed as being required by the appellate body, is not received.</p>
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Unclassified

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## ITEM 9

## Ards and North Down Borough Council

Report Classification	Unclassified
Council/Committee	Planning Committee
Date of Meeting	06 December 2022
Responsible Director	Director of Regeneration, Development and Planning
Responsible Head of Service	Head of Planning
Date of Report	23 November 2022
File Reference	
Legislation	The Planning (General Permitted Development) Order (NI) 2015
Section 75 Compliant	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other <input type="checkbox"/> If other, please add comment below:
Subject	DFI Public Consultation - Review of Permitted Development Rights
Attachments	DFI Letter and Public Consultation Document

1. The Council has received a letter from the Department for Infrastructure's Chief Planner advising that the Department has issued a consultation paper on proposals to amend permitted development rights.
2. The Planning (General Permitted Development) Order (Northern Ireland) 2015 sets out types of development which can be undertaken without requiring express planning permission through a planning application. These are referred to as permitted development rights and often relate to minor building works that have minimal impact to amenity and the environment. In most cases such permitted development rights are subject to conditions and limitations or provide that such rights only apply to certain developers (e.g. councils or statutory undertakers). Proposed development that does not fall within the scope of permitted development rights, including any conditions, must be subject of a planning application.

## Unclassified

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3. The consultation document attached forms part of the continuing review of permitted development rights being undertaken by the Department for Infrastructure. The Department is seeking views on the proposed changes in relation to permitted development rights for:
  - Installation of domestic microgeneration equipment (air source heat pumps, ground or water source heat pumps, domestic wind turbines);
  - Reverse Vending Machines.
4. The closing date for the consultation is 23 December 2022.
5. A draft response for Committee's approval is attached.

**RECOMMENDATION**

It is recommended that the Council notes this report and the attached consultation and approves the response to be submitted to DfI.

**Regional Planning Directorate**



Department for

**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

Clarence Court  
10-18 Adelaide Street  
BELFAST  
BT2 8GB  
Tel: 0300 200 7830

28th October 2022

Dear Sir/Madam

### **CONSULTATION ON REVIEW OF PERMITTED DEVELOPMENT RIGHTS**

I am writing to inform you that the Department for Infrastructure has issued a consultation paper on proposals to amend permitted development rights.

The purpose of the consultation is to obtain views on proposals in relation to permitted development rights for:

- installation of microgeneration equipment; and
- reverse vending machines.

Copies of the Consultation Paper may be downloaded from the website at: [Consultation on changes to planning permitted development rights to protect the environment and help address climate change | Department for Infrastructure \(infrastructure-ni.gov.uk\)](https://www.infrastructure-ni.gov.uk/consultation-on-changes-to-planning-permitted-development-rights-to-protect-the-environment-and-help-address-climate-change)

Alternatively you can request a copy by telephone: (028) 90540563, by text phone: (028) 90540642; by email: [Legislation.planning@infrastructure-ni.gov.uk](mailto:Legislation.planning@infrastructure-ni.gov.uk) or from the postal address below.

Permitted Development Rights Consultation  
Regional Planning Directorate  
Room 1-08  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

The closing date for the receipt of comments is 23 December 2022.

Yours sincerely

**ANGUS KERR**  
**Chief Planner**  
**& Director of Regional Planning**





Department for

**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

## PUBLIC CONSULTATION

### REVIEW OF PERMITTED DEVELOPMENT RIGHTS

- **Domestic Microgeneration Equipment**
  - **Air Source Heat Pumps**
  - **Ground or Water Source Heat Pumps**
- **Reverse Vending Machines**

Date: October 2022



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## Responding to this consultation document

### How to Respond

You are invited to send your views on this consultation document. Comments should reflect the structure of the document as far as possible with references to question numbers and paragraph numbers where relevant.

All responses should be made in writing and submitted to the Department no later than 23rd December 2022 in one of the following ways:

1. **Where possible online via Citizen Space.**
2. **By e-mail to: [Legislation.planning@infrastructure-ni.gov.uk](mailto:Legislation.planning@infrastructure-ni.gov.uk)**
3. **By post to:**  
Permitted Development Rights Consultation  
Regional Planning Directorate  
Room 1-08  
Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

In keeping with government policy on openness, responses to this consultation may be made available on request or published on the Department's website at:

Planning Legislation | Department for Infrastructure ([infrastructure-ni.gov.uk](http://infrastructure-ni.gov.uk)).

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:

Planning Legislation | Department for Infrastructure ([infrastructure-ni.gov.uk](http://infrastructure-ni.gov.uk)) or requested via the postal address, e-mail as above, by telephone on (028) 90540563 or by Text phone (028) 90540642.

This document is available in alternative formats. Please contact us using the contact details above to discuss your requirements.

If you have any comments or complaints about the consultation process itself (rather than the content of this document), these should also be directed to the postal or e-mail addresses above.

## **Confidentiality and Data Protection**

Information contained in your response may be made public by DfI. If you do not want all or part of your response made public, please state this clearly in the response by marking your response as 'CONFIDENTIAL'. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your correspondence will be taken to apply only to information in your response for which confidentiality has been specifically requested. Information provided in response to this consultation, excluding personal information, may be subject to publication or disclosure in accordance with the access to information regimes (this is primarily the Freedom of Information Act 2000 (FOIA)).

The Department will process your personal data in line with the Department's Privacy Notice (DfI Privacy | Department for Infrastructure ([infrastructure-ni.gov.uk](https://www.infrastructure-ni.gov.uk))). Personal data provided in response to this consultation will not be published. If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

As indicated above, the Department 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 Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraph below and it will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act 2000 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 or a call for evidence. The Department cannot automatically consider as confidential information supplied to it in response to a consultation or a call for evidence. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, excluding information about your identity, should be made public or treated as confidential.

### **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 also 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.

## Introduction

### Purpose of the consultation

- 1.1 The Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO) sets out types of development which can be undertaken without requiring a planning application. These are referred to as permitted development rights and often relate to minor building works that have minimal impact to amenity and the environment. In most cases permitted development rights are subject to conditions and limitations specified in the GPDO. These may, for example, specify the maximum size or scale of what is permitted, restrict or dis-apply the rights in certain locations (e.g. conservation areas, World Heritage Sites etc.) or provide that the permitted development rights only apply to certain developers (e.g. councils, or statutory undertakers). Proposed developments that do not fall within the scope of permitted development rights including any conditions, must be the subject of a planning application.
- 1.2 This consultation document forms part of the continuing review of permitted development rights being undertaken by the Department for Infrastructure. The Department is seeking your views on proposed changes in relation to permitted development rights for:
- installation of domestic microgeneration equipment; and
  - reverse vending machines.

A copy of the draft Order can be found at Annex A.

#### Installation of domestic microgeneration equipment

- 1.3 The Executive published an Energy Strategy on 16 December 2021, and its accompanying Action Plan was published on 20 January 2022. This Action Plan contained a commitment for the Department for Infrastructure to review permitted development legislation for low carbon heat installations to ensure it is up to date and fit for purpose.



- 1.4 The review has now been completed and this consultation document sets out the Department for Infrastructure's proposals for changes to the nature and scale of permitted development rights for the installation, alteration or replacement of heat pumps (air source and ground or water) to align with modern standards and requirements.
- 1.5 Permitted development rights are currently provided for the installation of domestic microgeneration equipment and can be viewed in Part 2 of the Schedule to GPDO at:  
The Planning (General Permitted Development) Order (Northern Ireland) 2015 ([legislation.gov.uk](http://legislation.gov.uk))

#### Reverse vending machines

- 1.6 The Department of Agriculture, Environment and Rural Affairs has plans to introduce a Deposit Return Scheme for single-use drinks containers alongside England and Wales in 2024. The scheme aims to change consumer behaviour to encourage higher levels of drinks container recycling where resources are kept in use for as long as possible and waste is minimized.
- 1.7 Deposit Return Scheme retailers will be responsible for providing a means to take back containers, usually through reverse vending machines, or for small premises through manual take back. If retailers are required to apply for planning permission for reverse vending machines outside of their premises it could result in delays to the scheme implementation and represent an additional cost to retailers.
- 1.8 This consultation is also proposing adding a new Class D to Part 3 (minor operations) of the Schedule to the GPDO specifically for reverse vending machines subject to certain limitations and conditions.

## Installation of domestic microgeneration equipment

- 2.1 In Northern Ireland Part 2 of the Schedule to the GPDO currently provides permitted development rights for air source heat pumps (Class G) and ground or water source heat pumps (Class F) subject to a number of limitations and conditions (See Annex B). Although the position in the other UK planning jurisdictions varies from one to another it is apparent that the current system of permitted development rights in Northern Ireland is the most restrictive.

### Air source heat pumps

- 2.2 Air source heat pumps (ASHP) are a low carbon technology that extract heat energy from the air in order to warm houses and provide hot water. The ASHP Unit essentially needs to be fitted outside the house on a wall or on the ground with enough space to ensure a good flow of air.
- 2.3 The current permitted development rights for ASHP were added in March 2014 to provide permitted development rights for the installation, alteration or replacement of an air source heat pump within the curtilage of a dwellinghouse subject to certain conditions and limitations.
- 2.4 The permitted development rights allow for one ASHP within the curtilage of a dwellinghouse. Development is not permitted if:-
- any part of an ASHP would be less than 30 metres from another dwellinghouse;
  - any part would be situated on land forward of a wall which faces onto a road and forms either the principal elevation or a side elevation of the original dwellinghouse;

- any part of an ASHP within a World Heritage Site or conservation area faces onto and is visible from a road;
- the external unit would exceed 2 metres in height;
- installed on a roof; or
- situated within the curtilage of a listed building unless listed building consent has previously been granted.

The ASHP must be used to provide heat for use within the curtilage of the dwellinghouse and the equipment must be removed when no longer needed for, or capable of, domestic microgeneration.

- 2.5 Northern Ireland is currently out of step with the other jurisdictions in these islands in relation to ASHP. Currently to avail of permitted development rights in the North an ASHP must be sited at least 30 metres from another dwelling. In England it is now 1 metre, while Scotland and the South have no distance restriction and Wales 3 metres.
- 2.6 The current distance restrictions in the other jurisdictions take into account new technology advances within heat pumps and require that the ASHP must comply with the Microgeneration Certification Scheme (MCS) Planning Standards or equivalent standards. This in particular applies in relation to noise outputs of ASHPs.
- 2.7 The MCS scheme certifies, quality assures and provides consumer protection for microgeneration installations and installers. These consist of small scale renewable electricity technologies such as solar PV, biomass, wind, heat pumps and battery storage.
- 2.8 The MCS requires that the equipment and installers are certified and registered, and that the installer carries out a number of sound level calculations at the time the equipment is installed. MCS certification is a mark of quality and demonstrates compliance to industry standards

including the quality of products and competence of installers in the renewable technology sector. Making use of the MCS certification scheme in the permitted development rights should provide a threshold for sound consideration that neighbours of ASHP will find acceptable.

## Proposals

2.9 We are proposing:-

- that the ASHP must comply with MCS Planning Standards or equivalent standards;
- any part of the ASHP would be at least 1 metre from another dwellinghouse; and
- to increase the height restriction from 2 metres to 3 metres.

The other restrictions and conditions including those in relation to World Heritage Sites, conservation areas and listed buildings will remain unchanged.

**Question 1: Do you agree with the above proposals in relation to air source heat pumps?**

**Question 2: Do you have any additional amendments which you believe should be included? Please provide reasons.**

## Ground or water source heat pumps

2.10 The current permitted development rights for ground and water source heat pumps are detailed in Class F of Part 2 of the Schedule to the GPDO. This provides permitted development rights for the provision of a ground or water source heat pump within the curtilage of a dwellinghouse subject to certain conditions and limitations.

Development is not permitted if:

- any part of the heat pump or its housing would be within 3 metres of the boundary of the curtilage of the dwellinghouse and would exceed 4 metres in height;
- any part of the heat pump or its housing would be nearer to a road which bounds the curtilage than the part of the dwellinghouse nearest to that road;
- it would involve the provision of any heat pump within an area of special scientific interest or a site of archaeological interest; or
- the dwellinghouse is within the curtilage of a listed building unless listed building consent for the development has previously been granted.

2.11 The permitted development right is also subject to the conditions that the heat pump would be used to provide heat for use within the curtilage of the dwellinghouse and when no longer used to provide heat it must be removed as soon as reasonably practicable.

2.12 A ground source heat pump (GSHP) needs space for the ground loops for a horizontal collector – generally the available land needs to be at least two and a half times larger than the entire floor area of the property. There also needs to be space for a plant room to hold the heat pump and cylinder. Because of this, only larger properties or those in a rural location are generally suited to a GSHP. The alternative is to

drill a series of vertical boreholes that will carry the ground collector pipe.

- 2.13 A water source heat pump uses submerged pipework to absorb energy from water sources such as lakes, ponds, rivers, aquifers and mine water. It is essentially the same unit as a GSHP, however, the heat source they use and the way they collect the heat is different.
- 2.14 The North is currently out of step with the other jurisdictions in relation to ground and water source heat pumps which are currently permitted development in Scotland, England and Wales with no conditions or limitations. In the South exempted development is provided for the installation on or within the curtilage of a house of a ground heat pump system (horizontal and vertical) subject to certain restrictions.

### **Proposals**

- 2.15 We are proposing to align the permitted development rights with Scotland, England and Wales and propose to provide permitted development rights for the provision of a ground or water source heat pump within the curtilage of a dwellinghouse with no conditions or limitations.

### **Question 3: Do you agree with the above proposals in relation to ground or water source heat pumps?**

### **Domestic Wind Turbines**

- 3.1 There are currently no permitted development rights in the North for domestic wind turbines reflecting the fact that such development can raise issues, including in relation to visual amenity, noise and interference with air navigation systems, which may be more appropriately considered in the context of a planning application.

- 3.2 Scotland, England and Wales do provide permitted development rights for domestic wind turbines subject to a number of limitations and conditions. In the South, exempted development provides for a wind turbine within the curtilage of a house subject to a number of restrictions.

## Proposals

- 3.3 The Department does not intend to bring forward proposals to provide for permitted development rights for domestic wind turbines at this time, but is seeking views on whether there is a demand or need for the introduction of such a right in the North.

**Question 4: If you have any views on whether permitted development rights for domestic wind turbines should be considered please provide details.**

## Reverse Vending Machines

- 4.1 Part 3 of the Schedule to the GPDO currently provides permitted development rights for Minor Operations.
- 4.2 The Department of Agriculture, Environment and Rural Affairs (DAERA) has plans to introduce a Deposit Return Scheme (DRS) for single-use drinks containers alongside England and Wales in 2024. The scheme aims to change consumer behaviour to encourage higher levels of drinks container recycling where resources are kept in use for as long as possible and waste is minimised.
- 4.3 DAERA advise the proposals for DRS will reduce costs of handling litter to the rate payer and reduce littering of DRS containers by increasing recycling of drinks containers from 70% to 90%.

- 4.4 If retailers are required to apply for planning permission for reverse vending machines outside of their premises it could result in delays to the scheme implementation and represent an additional cost to retailers.

## Proposals

- 4.5 The Department proposes adding a new Class D to Part 3 (minor operations) of the Schedule to the GPDO specifically to allow for the installation, alteration or replacement of a reverse vending machine (RVM) in a wall of a shop or within the curtilage of a shop, subject to certain limitations and conditions. This is in line with the current permitted development rights in Scotland.
- 4.6 We are proposing:
- there should be no limit to the number of RVM that can be installed within the curtilage of a shop;
  - in the case of a RVM installed in the wall of a shop, any part of the development must not exceed 2 metres beyond the outer surface of that wall;
  - the RVM must not exceed 4 metres in height;
  - the footprint of the RVM must not exceed 80 square metres;
  - it must not face onto and be within 5 metres of a road;
  - the RVM must not be situated within 15 metres of the curtilage of a building used for residential purposes; and
  - the permitted development right would not apply to the proposed installation of a RVM in a World Heritage Site, conservation area, an area of special scientific interest or a site of archaeological interest or within the curtilage of a listed building unless listed building consent has been granted.



**Question 5: Do you agree with the introduction of a new permitted development right for reverse vending machines?**

**Question 6: Do you have any amendments or additional restrictions you would propose to the permitted development right? Please provide reasons.**

## Overview of Consultation Questions

Question 1: Do you agree with the above proposals in relation to air source heat pumps? ..... 12

Question 2: Do you have any additional amendments which you believe should be included? Please provide reasons..... 12

Question 3: Do you agree with the above proposals in relation to ground or water source heat pumps?..... 14

Question 4: If you have views on whether permitted development rights for domestic wind turbines should be considered please provide details? ..... 15

Question 5: Do you agree with the introduction of a new permitted development right for reverse vending machines?..... 17

Question 6: Do you have any amendments or additional restrictions you would propose to the permitted development right? Please provide reasons..... 17

**If you disagree with any of these proposals it would be helpful to explain why.**

## Annex A – Draft Statutory Rule

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### STATUTORY RULES OF NORTHERN IRELAND

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**2023 No.**

### PLANNING

#### The Planning (General Permitted Development) (Amendment) Order (Northern Ireland) 2023

<i>Made</i>	- - - -	?? 2023
<i>Coming into operation</i>	-	?? 2023

The Department for Infrastructure makes the following Order in exercise of the powers conferred by sections 32 and 247(6) of the Planning Act (Northern Ireland) 2011(a) and now vested in it(b).

#### **Citation and commencement**

1. This Order may be cited as the Planning (General Permitted Development) (Amendment) Order (Northern Ireland) 2016 and comes into operation on ?? 2023.

#### **Amendment of the Planning (General Permitted Development) Order (Northern Ireland) 2015**

2.-(1) The Planning (General Permitted Development) Order (Northern Ireland) 2015(c) is amended in accordance with paragraph (2).

(1) In the Schedule (development permitted under Article 3)—

- (a) Part 2 (installation of domestic microgeneration equipment) is amended in accordance with Schedule 1; and
- (b) Part 3 (Minor Operations) is amended in accordance with Schedule 2.

Sealed with the Official Seal of the Department for Infrastructure on ?? 2023.

A senior officer of the Department for Infrastructure

(a) 2011 c.25 (N.I.)

(b) S.R. 2016 No.76, article 8(1)(b) and Schedule 5, Part 2

(c) S.R. 2015 No. 70 as amended by S.R. 2020 No.292

## SCHEDULE 1

Article 2(2)(a)

**AMENDMENTS TO PART 2 OF THE SCHEDULE TO THE  
PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER  
(NORTHERN IRELAND) 2015**

## 3. For Class F and Class G substitute—

<b>“Class F Permitted development</b>	<b>F.</b>	<b>The installation, alteration or replacement of a ground or water source heat pump within the curtilage of a dwellinghouse.</b>
<b>Class G Permitted development</b>	<b>G.</b>	<b>The installation, alteration or replacement of an air source heat pump within the curtilage of a dwellinghouse.</b>
Development not permitted	G.1	Development is not permitted by Class G if— <ul style="list-style-type: none"> <li>(a) it would result in the presence within the curtilage of more than one air source heat pump;</li> <li>(b) any part of the air source heat pump would be less than one metre from a dwellinghouse (other than the dwellinghouse on which the air source heat pump is being installed or replaced);</li> <li>(c) any part of the air source heat pump would be situated on land forward of a wall which—             <ul style="list-style-type: none"> <li>(i) faces onto a road; and</li> <li>(ii) forms either the principal elevation or a side elevation of the original dwellinghouse.</li> </ul> </li> <li>(d) in the case of a dwellinghouse within a World Heritage Site or conservation area and any part of the air source heat pump faces onto and is visible from a road;</li> <li>(e) the external unit of the air source heat pump would exceed 3 metres in height</li> <li>(f) the air source heat pump would be installed on a roof; or</li> <li>(g) the air source heat pump would be situated within the curtilage of a listed building unless listed building consent for the development has previously been granted.</li> </ul>
Conditions	G.2	Development is permitted by Class G subject to the following conditions— <ul style="list-style-type: none"> <li>(a) the air source heat pump would be used to provide heat for use within the curtilage of</li> </ul>

the dwellinghouse; and

- (b) when no longer used to provide heat it shall be removed as soon as reasonably practicable; and
- (c) the air source heat pump must comply with MCS planning standards or equivalent standards.

Interpretation of Class G      G. 3      For the purposes of Class G “MCS Planning Standards” means the product and installation standards for air source heat pumps specified in Microgeneration Certification Scheme MCS 020<sup>1</sup>;

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<sup>1</sup> Issue 1.3 dated 19<sup>th</sup> June 2019 at MCS-020.pdf (mcs-certified.com)

## SCHEDULE 2

Article 2(2)(b)

**AMENDMENT TO PART 3 OF THE SCHEDULE TO THE  
PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER  
(NORTHERN IRELAND) 2015**

**Amendments in relation to shops, financial or professional services establishments****1. After Class C insert—**

<b>“Class D Permitted development</b>	<b>D.</b>	The installation, alteration or replacement of a reverse vending machine in a wall of a shop or within the curtilage of a shop
Development not permitted	D.1.	Development is not permitted by Class D if— <ul style="list-style-type: none"> <li>(a) the reverse vending machine would exceed 4 metres in height;</li> <li>(b) its footprint would exceed 80 square metres;</li> <li>(c) in the case of a reverse vending machine installed in the wall of a shop, any part of the development would protrude 2 metres beyond the outer surface of the wall;</li> <li>(d) it would be situated within 15 metres of the curtilage of a building used for residential purposes;</li> <li>(e) it would face onto and be within 5 metres of a road;</li> <li>(f) the development would be within the curtilage of a listed building unless listed building consent has previously been granted; or</li> <li>(g) the development would be within a conservation area, a World Heritage Site, an area of special scientific interest or a site of archaeological interest.</li> </ul>
Conditions	D.2.	Development is permitted by Class D subject to the following conditions— <ul style="list-style-type: none"> <li>(a) where the reverse vending machine is no longer in operation the development must be removed as soon as reasonably practicable; and</li> <li>(b) the land on which the development was situated, including any wall in which the development was installed must, as soon as reasonably practicable and so far as reasonably practicable, be reinstated to its condition before the development was carried out.</li> </ul>
Interpretation of Class D	D.3.	For the purposes of Class D— “footprint” means an area of ground covered by

the development;

“reverse vending machine” means a machine for the purpose of accepting scheme packaging, reimbursing deposits for each item of scheme packaging accepted and retaining the scheme packaging for collection within the meaning of the [Deposit and Return Scheme Regulations] and any associated enclosure, building, canopy or other structure;

“scheme packaging” has the meaning given in [regulation xx of the Deposit and Return Scheme Regulations];

“shop” means a building used for any purpose within Class A1 of the Schedule to the Use Classes Order.”

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Planning (General Permitted Development) Order (Northern Ireland) 2015 ("the 2015 Order").

Schedule 1 of this Order amends by substitution Class F and Class G of Part 2 of the Schedule to expand the scopes of that permitted development.

Schedule 2 of this Order amends Part 3 (Minor operations) of the Schedule to the 2015 Order to expand the scope of that permitted development by adding a new Class D (Reverse vending machines).

The Explanatory Memorandum is available alongside the Order on the government's website [www.legislation.gov.uk](http://www.legislation.gov.uk)



## Annex B

## The Planning (General Permitted Development) Order (Northern Ireland) 2015

### Part 2 Installation of domestic microgeneration equipment

<b>Class F Permitted development</b>	<b>F.</b>	<b>The provision of a ground or water source heat pump within the curtilage of a dwellinghouse.</b>
Development not permitted	F.1	<p>Development is not permitted by Class F if—</p> <ul style="list-style-type: none"> <li>(a) any part of the heat pump or its housing would be within 3 metres of the boundary of the curtilage of the dwellinghouse and would exceed 4 metres in height;</li> <li>(b) any part of the heat pump or its housing would be nearer to a road which bounds the curtilage than the part of the dwellinghouse nearest to that road;</li> <li>(c) it would involve the provision of any heat pump within an area of special scientific interest or a site of archaeological interest; or</li> <li>(d) the heat pump would be situated within the curtilage of a listed building unless listed building consent for the development has previously been granted.</li> </ul>
Conditions	F.2	<p>Development is permitted by Class F subject to the following conditions—</p> <ul style="list-style-type: none"> <li>(a) the heat pump would be used to provide heat for use within the curtilage of the dwellinghouse; and</li> <li>(b) when no longer used to provide heat it shall be removed as soon as reasonably practicable.</li> </ul>
<b>Class G Permitted development</b>	<b>G.</b>	<b>The installation, alteration or replacement of an air source heat pump within the curtilage of a dwellinghouse.</b>
Development not permitted	G.1	<p>Development is not permitted by Class G if—</p> <ul style="list-style-type: none"> <li>(a) it would result in the presence within the curtilage of more than one air source heat pump;</li> <li>(b) any part of the air source heat pump would be less than 30 metres from a dwellinghouse (other than the dwellinghouse on which the air source</li> </ul>

heat pump is being installed, altered or replaced);

- (c) any part of the air source heat pump would be situated on land forward of a wall which—
  - (i) faces onto a road; and
  - (ii) forms either the principal elevation or a side elevation of the original dwellinghouse;
- (d) in the case of a dwellinghouse within a World Heritage Site or conservation area any part of the air source heat pump faces onto and is visible from a road;
- (e) the external unit of the air source heat pump would exceed 2 metres in height;
- (f) the air source heat pump would be installed on a roof;
- (g) the air source heat pump would be situated within the curtilage of a listed building unless listed building consent for the development has previously been granted.

Conditions

G.2

Development is permitted by Class G subject to the following conditions—

- (a) the air source heat pump would be used to provide heat for use within the curtilage of the dwellinghouse; and
- (b) when no longer used to provide heat it shall be removed as soon as reasonably practicable.

## **Annex C – Screening for Equality Impact Assessment**

### **DEPARTMENT FOR INFRASTRUCTURE**

#### **SECTION 75 EQUALITY OF OPPORTUNITY SCREENING ANALYSIS FORM**

The purpose of this form is 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 quarterly consultation on the outcome of the screening exercise, and will be referenced in the biannual review of progress made to the Minister and in the Annual Report to the Equality Commission.

Further advice on completion of this form and the screening process including relevant contact information can be accessed via the Department for Infrastructure (Dfi) Intranet site.

### **HUMAN RIGHTS ACT**

When considering the impact of this policy you should also consider if there would be any Human Rights implications. Guidance is at:

- <https://www.executiveoffice-ni.gov.uk/articles/human-rights-and-public-authorities>

Should this be appropriate you will need to complete a Human Rights Impact Assessment. A template is at:

- <https://www.executiveoffice-ni.gov.uk/publications/human-rights-impact-assessment-proforma>

**Don't forget to Rural Proof.**

## Part 1. Policy scoping

The first stage of the screening process involves scoping the policy under consideration. The purpose of policy scoping is to help prepare the background and context and set out the aims and objectives for the policy, being screened. At this stage, scoping the policy will help identify potential constraints as well as opportunities and will help the policy maker work through the screening process on a step by step basis.

Public authorities should remember that the Section 75 statutory duties apply to internal policies (relating to people who work for the authority), as well as external policies (relating to those who are, or could be, served by the authority).

### Information about the policy

Name of the policy

Review of Permitted Development Rights

Is this an existing, revised or a new policy?

Existing Policy

What is it trying to achieve? (intended aims/outcomes)

To amend permitted development rights for (1) Installation of domestic microgeneration equipment; and (2) To add new permitted development rights for Reverse Vending Machines.

Are there any Section 75 categories which might be expected to benefit from the intended policy?

If so, explain how.

No

Who initiated or wrote the policy?

The former Department of the Environment

Who owns and who implements the policy?

The Department for Infrastructure owns the policy. The Department for Infrastructure, Council Planning Departments and the relevant sectors of the

development industry/economy are the main groups/organisations that implement the policy.

## Background

This policy relates solely to amendments to the Planning (General Permitted Development) Order (NI) 2015 (GPDO) and is part of the Department's ongoing programme of expanding the scope of the permitted development regime. The Department is consulting on amendments to the GPDO. This is part of the Department's approach to better regulation, and is intended to provide a considered balance between lightening the regulatory burden on businesses and individuals (and reducing any associated costs) and protecting the environment, amenity and public safety.

The consultation document is seeking your views on proposals in relation to permitted development rights for:

- Installation of domestic microgeneration equipment; and
- Reverse vending machines (RVM).

### Domestic Microgeneration – Heat Pumps

The Department for Infrastructure is reviewing permitted development legislation for domestic low carbon heat installations to ensure it is up to date and fit for purpose and is consulting on changes to the nature and scale of permitted development rights for the installation, alteration or replacement of heat pumps to align with modern standards and requirements.

This policy proposes to change the nature and scale of permitted development rights for the installation, alteration or replacement of heat pumps to align with modern standards and requirements particularly in relation to noise emissions. any specifics on this. This will make it easier and quicker for homeowners to install heat pumps.

### Reverse Vending Machines

The Department of Agriculture, Environment and Rural Affairs has plans to introduce a Deposit Return Scheme (DRS) for single-use drinks containers alongside England and Wales in 2024. The scheme aims to change consumer behaviour to encourage higher levels of drinks container recycling where resources are kept in use for as long as possible and waste is minimized.

DRS retailers will be responsible for providing means to take back containers, usually through RVM, or for small premises through manual take back. If permitted development rights are not provided retailers will be required to apply

for planning permission for RVM outside of their premises which would result in delays to the scheme implementation and represent an additional cost to retailers.

The Department for Infrastructure is proposing to introduce permitted development rights for RVM to facilitate this Deposit Return Scheme.

This policy proposes to add a new Class D to Part 3 (minor operations) of the Schedule to the GPDO specifically for RVM subject to certain limitations and conditions. These include:

- in the case of a RVM installed in the wall of a shop, any part of the development must not exceed 2 metres beyond the outer surface of that wall;
- the RVM must not exceed 4 metres in height;
- the footprint of the RVM must not exceed 80 square metres;
- it must not face onto and be within 5 metres of a road;
- the RVM must not be situated within 15 metres of the curtilage of a building used for residential purposes; and
- the permitted development right would not apply to the proposed installation of a RVM in a World Heritage Site, conservation area, an area of special scientific interest or a site of archaeological interest or within the curtilage of a listed building unless listed building consent has been granted.

### Implementation factors

Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision?

If yes, are they (please delete as appropriate)

Legislative – The implementation of the policy will require amendments to subordinate legislation

### Main stakeholders affected

Who are the internal and external stakeholders (actual or potential) that the policy will impact upon? (please delete as appropriate)

Staff	Yes
service users	Yes
other public sector organisations	Yes

voluntary/community/trade unions No

other, please specify Yes – businesses, in particular Retailers and the providers and installers of heat pumps

### Other policies with a bearing on this policy

- **what are they?** The Department of Agriculture, Environment and Rural Affairs Deposit Return Scheme (DRS) for single-use drinks containers. The scheme aims to change consumer behaviour to encourage higher levels of drinks container recycling where resources are kept in use for as long as possible and waste is minimized.

Department for the Economy who are leading on the Executive's Energy Strategy. The Energy Strategy was published on 16 December 2021, and its accompanying Action Plan was published on 20 January 2022. This Action Plan contained a commitment for the Department for Infrastructure who hold responsibility for the GPDO to review permitted development legislation for low carbon heat installations to ensure it is up to date and fit for purpose.

- **who owns them?**

The Department of Agriculture, Environment and Rural Affairs  
 Department for the Economy  
 Department for Infrastructure

## Available evidence

Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data. The Commission has produced this guide to signpost to S75 data.

What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

### Religious belief evidence / information:

The Department does not envisage or consider that there are likely to be any specific negative impacts associated with this policy.

There is no evidence to suggest that expanding the scope of the permitted development regime of itself, or generally, is more or less likely to adversely impact upon any s.75 group(s).

The Department does not therefore envisage any significant, adverse or unequal impact of these changes upon any s.75 category

### Political Opinion evidence / information:

As above

### Racial Group evidence / information:

As Above

### Age evidence / information:

As above

### Marital Status evidence / information:

As above

### Sexual Orientation evidence / information:

As above

### Men & Women generally evidence / information:



As above

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**Disability** evidence / information:

As above

**Dependants** evidence / information:

As above

## Needs, experiences and priorities

Taking into account the information referred to above, what are the different needs, experiences and priorities of each of the following categories, in relation to the particular policy/decision?

Specify details of the needs, experiences and priorities for each of the Section 75 categories below:

### Religious belief

None – The policy relates solely to the permitted development rights for domestic heat pumps and RVM. No equality issues identified by expanding the scope of permitted development rights as the changes will be available to all potential users of the planning system. In line with the Equality Commission NI guidance, regular and ongoing monitoring and screening of each policy will be undertaken to examine any potential equality impacts. DAERAs Deposit Return Scheme will mean retailers will be responsible for providing means to take back containers, usually through RVM, or for small premises through manual take back.

### Political Opinion

As above

### Racial Group

As above

### Age

As above

### Marital status

As above

### Sexual orientation

As above

### Men and Women Generally

As above

## Disability

As above

## Dependants

As above

## Part 2. Screening questions

### Introduction

In making a decision as to whether or not there is a need to carry out an equality impact assessment, the public authority should consider its answers to the questions 1-4 which are given on pages 66-68 of this Guide.

If the public authority's conclusion is **none** in respect of all of the Section 75 equality of opportunity and/or good relations categories, then the public authority may decide to screen the policy out. If a policy is 'screened out' as having no relevance to equality of opportunity or good relations, a public authority should give details of the reasons for the decision taken.

If the public authority's conclusion is **major** in respect of one or more of the Section 75 equality of opportunity and/or good relations categories, then consideration should be given to subjecting the policy to the equality impact assessment procedure.

If the public authority's conclusion is **minor** in respect of one or more of the Section 75 equality categories and/or good relations categories, then consideration should still be given to proceeding with an equality impact assessment, or to:

- measures to mitigate the adverse impact; or
- the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

### In favour of a 'major' impact

- a) The policy is significant in terms of its strategic importance;
- b) Potential equality impacts are unknown, because, for example, there is insufficient data upon which to make an assessment or because they are complex, and it would be appropriate to conduct an equality impact assessment in order to better assess them;

- c) Potential equality and/or good relations impacts are likely to be adverse or are likely to be experienced disproportionately by groups of people including those who are marginalised or disadvantaged;
- d) Further assessment offers a valuable way to examine the evidence and develop recommendations in respect of a policy about which there are concerns amongst affected individuals and representative groups, for example in respect of multiple identities;
- e) The policy is likely to be challenged by way of judicial review;
- f) The policy is significant in terms of expenditure.

### **In favour of 'minor' impact**

- a) The policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible;
- b) The policy, or certain proposals within it, are potentially unlawfully discriminatory, but this possibility can readily and easily be eliminated by making appropriate changes to the policy or by adopting appropriate mitigating measures;
- c) Any asymmetrical equality impacts caused by the policy are intentional because they are specifically designed to promote equality of opportunity for particular groups of disadvantaged people;
- d) By amending the policy there are better opportunities to better promote equality of opportunity and/or good relations.

### **In favour of none**

- a) The policy has no relevance to equality of opportunity or good relations.
- b) The policy is purely technical in nature and will have no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.

Taking into account the evidence presented above, consider and comment on the likely impact on equality of opportunity and good relations for those affected by this policy, in any way, for each of the equality and good relations categories, by applying the screening questions given overleaf and indicate the level of impact on the group i.e. minor, major or none.

## Screening questions

### 1. What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories?

Please provide details of the likely policy impacts and determine the level of impact for each S75 categories below i.e. either minor, major or none.

Details of the likely policy impacts on **Religious belief**:

None – Expanding the scope of permitted development rights will be available equally to all potential users of the planning system who wish to install a domestic heat pump or require a RVM.

What is the level of impact? [None – as above](#)

Details of the likely policy impacts on **Political Opinion**: [None – as above](#)

What is the level of impact? [As Above - None](#)

Details of the likely policy impacts on **Racial Group**: [None – as above](#)

What is the level of impact? [None](#)

Details of the likely policy impacts on **Age**: [None – as above](#)

What is the level of impact? [None](#)

Details of the likely policy impacts on **Marital Status**: [None – as above](#)

What is the level of impact? [None](#)

Details of the likely policy impacts on **Sexual Orientation**: [None – as above](#)

What is the level of impact? [None](#)

Details of the likely policy impacts on **Men and Women**: [None – as above](#)

What is the level of impact? [None](#)

Details of the likely policy impacts on **Disability**: [None – as above](#)

What is the level of impact? [None](#)

Details of the likely policy impacts on **Dependants**: [None – as above](#)

What is the level of impact? [None](#)

2. **Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories? Yes/No**

Detail opportunities of how this policy could promote equality of opportunity for people within each of the Section 75 Categories below:

**Religious Belief – No:** The relaxation of permitted development rights is part of the Department's commitment to the Executive's Energy Strategy to review permitted development legislation for low carbon heat installations to ensure it is up to date and fit for purpose and aligns with modern standards and requirements.

Proposals for a new permitted development right for reverse vending machines are to facilitate the Department of Agriculture, Environment and Rural Affairs plans to introduce a Deposit Return Scheme (DRS) for single-use drinks containers. The scheme aims to change consumer behaviour to encourage higher levels of drinks container recycling where resources are kept in use for as long as possible and waste is minimised.

There is no opportunity to better promote equality of opportunity.

**Political Opinion - No:** as above.

**Racial Group - No:** as above.

**Age - No:** as above.

**Marital Status - No:** as above.

**Sexual Orientation - No: as above.**

**Men and Women generally - No: as above.**

**Disability - No: as above.**

**Dependants - No: as above.**

3. **To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group?**

Please provide details of the likely policy impact and determine the level of impact for each of the categories below i.e. either minor, major or none.

Details of the likely policy impacts on **Religious belief**: None as the policy driving these changes is aimed at protecting the environment by encouraging the use of low carbon heat technologies and promoting the recycling of drinks containers. The proposed changes will apply equally to all potential users of the planning system applying for permitted development rights under amendments to the Planning (General Permitted Development) Order (NI) 2015.

There are no identified opportunities to promote good relations between persons of different religious belief.

What is the level of impact? **None.**

Details of the likely policy impacts on **Political Opinion**: **None – as above**

What is the level of impact? **None**

Details of the likely policy impacts on **Racial Group**: **None – as above**

What is the level of impact? **None**

4. **Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?**

Detail opportunities of how this policy could better promote good relations for people within each of the Section 75 Categories below:

**Religious Belief – No** - The policy driving these changes is aimed at protecting the environment by encouraging the use of low carbon heat technologies and promoting the recycling of drinks containers. The proposed changes will apply equally to all potential users of the planning system applying for permitted development rights under amendments to the Planning (General Permitted Development) Order (NI) 2015.

**Political Opinion - No** – as above.

**Racial Group - No** – as above.



## Additional considerations

### Multiple identity

Generally speaking, people can fall into more than one Section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities?

*(For example; disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people).*

There is no evidence that the policy has any impact on people with multiple identities.

Provide details of data on the impact of the policy on people with multiple identities. Specify relevant Section 75 categories concerned.

None.

### Part 3. Screening decision

If the decision is not to conduct an equality impact assessment, please provide details of the reasons.

The Department does not envisage or consider that there are likely to be any specific significant negative, adverse or unequal impacts associated with this policy. The expansion of the scope of permitted development rights are to facilitate policies to improve the environment and encourage recycling.

There is no evidence that existing or enhanced permitted development rights have any impact in terms of equality of opportunity or good relations. The policy will be subject to public consultation and any S75 issues raised will be considered.

In line with the Equality Commission NI guidance "regular and ongoing monitoring and screening of each major project will be undertaken to examine any equality impacts"

If the decision is not to conduct an equality impact assessment the public authority should consider if the policy should be mitigated or an alternative policy be introduced - please provide details.

As above

If the decision is to subject the policy to an equality impact assessment, please provide details of the reasons.

N/A

All public authorities' equality schemes must state the authority's arrangements for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity. The Commission recommends screening and equality impact assessment as the tools to be utilised for such assessments. Further advice on equality impact assessment may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

## Mitigation

When the public authority concludes that the likely impact is 'minor' and an equality impact assessment is not to be conducted, the public authority may consider mitigation to lessen the severity of any equality impact, or the introduction of an alternative policy to better promote equality of opportunity or good relations.

Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?

If so, **give the reasons** to support your decision, together with the proposed changes/amendments or alternative policy.

N/A

## Timetabling and prioritising

Factors to be considered in timetabling and prioritising policies for equality impact assessment.

If the policy has been '**screened in**' for equality impact assessment, then please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3, with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

**Priority criterion** [Author pick 1 2 or 3 if a full EQIA is to take place]

Effect on equality of opportunity and good relations	<b>Rating 1, 2 or 3</b>
Social need	<b>Rating 1, 2 or 3</b>
Effect on people's daily lives	<b>Rating 1, 2 or 3</b>
Relevance to a public authority's functions	<b>Rating 1, 2 or 3</b>

Note: The Total Rating Score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the public authority in timetabling. Details of the Public Authority's Equality Impact Assessment Timetable should be included in the quarterly Screening Report.

Is the policy affected by timetables established by other relevant public authorities?

No

## Part 4. Monitoring

Public authorities should consider the guidance contained in the Commission's Monitoring Guidance for Use by Public Authorities (July 2007).

The Commission recommends that where the policy has been amended or an alternative policy introduced, the public authority should monitor more broadly than for adverse impact (See Benefits, P.9-10, paras 2.13 – 2.20 of the Monitoring Guidance).

Effective monitoring will help the public authority identify any future adverse impact arising from the policy which may lead the public authority to conduct an equality impact assessment, as well as help with future planning and policy development.

## Part 5 - Approval and authorisation

Screened by: [David Doherty](#)

Position/Job Title: [Deputy Principal Planning](#)

Date: 17 [October 2022](#)

Approved by: [Irene Kennedy](#)

Position/Job Title: [Assistant Director](#)

Date: 17 [October 2022](#)

Note: A copy of the Screening Template, for each policy screened should be 'signed off' and approved by a senior manager responsible for the policy, made easily accessible on the public authority's website as soon as possible following completion and made available on request.

### For Equality Team Completion:

Date Received:

Amendments Requested: Yes / No

Date Returned to Business Area:

Date Final Version Received / Confirmed:

Date Published on DfI's Section 75 webpage:

## Annex D

<b>Title:</b> <b>Review of Permitted Development Rights</b>	<b>Regulatory Impact Assessment (RIA)</b>
	<b>Date:</b> October 2022
	<b>Type of measure:</b> Subordinate Legislation
<b>Lead department or agency:</b> Department for Infrastructure	<b>Stage:</b> Initial
	<b>Source of intervention:</b> Domestic NI
<b>Other departments or agencies:</b> N/A	<b>Contact details:</b> Irene Kennedy

### Summary Intervention and Options

**What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)**

This intervention fulfils a Departmental commitment to review the Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO) to provide enhanced permitted development rights (PDR) for heat pumps to ensure they are up to date and fit for purpose to align with modern standards and requirements. It also provides a new permitted development right for reverse vending machines (RVM). This is in line with the Department's approach to better regulation which is intended to provide a considered balance between lightening the regulatory burden on businesses and individuals and protecting the environment, amenity and public safety.

**What are the policy objectives and the intended effects? (7 lines maximum)**

The relaxation of permitted development rights is part of the Department's commitment to the Executive's Energy Strategy to review PDR for low carbon heat installations to ensure it is up to date and fit for purpose. Proposals for a new PDR for RVM are to facilitate the Department of Agriculture, Environment and Rural Affairs plans to introduce a Deposit Return Scheme for single-use drinks containers. The scheme aims to change consumer behaviour to encourage higher levels of drinks container recycling. It is difficult to measure/quantify the monetary benefits or effects of any proposed changes as the level of future planning applications cannot be accurately predicted, however, it is not unreasonable to conclude that any further relaxations would be positive overall.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)**

Essentially there are two options:

- Option 1 - Do nothing (maintain the status quo); and
- Option 2 - Review the GPDO.

The review fulfils the Departmental commitment to review PDR for low carbon heat installations.

The review will facilitate the installation of RVM in a significant number of cases and allow the industry greater certainty that they will be able to meet potential statutory obligations.

Not to review the legislation, nor to consider in line with changes in other jurisdictions may be disadvantageous to local business and therefore is not an option.

**Will the policy be reviewed?** It will be reviewed

**If applicable, set review date:** January 2023

Cost of Preferred (or more likely) Option		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m

Does Implementation go beyond minimum EU requirements?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>		
Is this measure likely to impact on trade and investment?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>		
Are any of these organisations in scope?	<b>Micro</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Small</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Medium</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Large</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by:                      Date:

## Summary: Analysis and Evidence

## Policy Option 2

Description:

**ECONOMIC ASSESSMENT (Option )**

<b>Costs (£m)</b>	<b>Total Transitional (Policy)</b> (constant price)      Years		<b>Average Annual (recurring)</b> (excl. transitional) (constant price)	<b>Total Cost</b> (Present Value)
<b>Low</b>	Optional		Optional	Optional
<b>High</b>	Optional		Optional	Optional
<b>Best</b>				
<b>Description and scale of key monetised costs by 'main affected groups'</b> Maximum 5 lines It is not possible to quantify the monetary costs to the main affected groups of this option as it is predicated on whether an application for planning permission would have been forthcoming and if associated costs then removed under permitted development. There will be a cost to business in relation to heat pumps in undertaking the microgeneration certification compliance procedure, however this should be less onerous than the costs associated with planning applications.				
<b>Other key non-monetised costs by 'main affected groups'</b> Maximum 5 lines None.				
<b>Benefits (£m)</b>	<b>Total Transitional (Policy)</b> (constant price)      Years		<b>Average Annual (recurring)</b> (excl. transitional) (constant price)	<b>Total Benefit</b> (Present Value)
<b>Low</b>	Optional		Optional	Optional
<b>High</b>	Optional		Optional	Optional
<b>Best</b>				
<b>Description and scale of key monetised benefits by 'main affected groups'</b> Maximum 5 lines It is difficult to measure / quantify the monetary benefits or effects of any proposed changes (as this is reliant on the number of applications for planning permission which would otherwise be required) however it is not unreasonable to conclude that the relaxations would be positive overall. A significant number of retailers would benefit from not having to expend the costs associated with preparing and submitting a planning application for RVM. Home owners would benefit from not having to pay for the planning application for heat pumps.				
<b>Other key non-monetised benefits by 'main affected groups'</b> Maximum 5 lines The introduction of additional or extended permitted development rights will allow certain forms of development to proceed without the requirement or administrative burden on business or homeowners to submit an application seeking planning permission and await a council's determination. Less regulatory burden for both the regulator and to the person / business intending to undertake the permitted development derived from further relaxations of permitted development rights.				
<b>Key Assumptions, Sensitivities, Risks</b> Maximum 5 lines It is not unreasonable to assume that any extension / relaxations to the existing permitted development regime would be positive overall. Certain condition and limitations imposed on permitted development rights ensures that sensitivities and risks associated with deregulating some types of development are identified and mitigated.				



**BUSINESS ASSESSMENT (Option 1)**

Direct Impact on business (Equivalent Annual) £m			
Costs:	Benefits:	Net:	
			Cannot be quantified monetarily but is assumed can only be positive if planning requirements are reduced.

**Cross Border Issues (Option 2)****How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines**

This option will bring NI closer to the equivalent legislation in other jurisdictions. Any proposals to further relax permitted development locally will take account of changes / advancements elsewhere.

**Evidence Base**

The planning system provides a mechanism through which the impacts of development to third parties can be taken into consideration when new development is proposed. The planning system plays an important role in promoting the efficient use of land and considering and mitigating the adverse impacts that development can have. However, applying for planning permission places an administrative burden on business / home owners.

Where a development has little or limited adverse impact or the impacts can be controlled in a way that does not require detailed assessment of each proposal, the requirement to obtain planning permission can often place additional burdens and costs on business and other applicants that are disproportionate to the likely potential impacts.

The planning system aims to achieve proportionality by exercising different degrees of control over types of development with different degrees of impact. The requirement for councils' scrutiny of development proposals with little or limited adverse impact is removed using permitted development rights. Permitted development rights are a deregulatory tool to grant automatic planning permission for development that complies with certain specified limitations and conditions that are set out in legislation, which in Northern Ireland is the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015.

**Policy issue under consideration and objectives**

The policy issue under consideration is whether the thresholds that govern the available permitted development rights for the following types of development remain appropriate to the local context:

- the installation of domestic microgeneration equipment; and
- reverse vending machines.

The policy objective is to deregulate by removing more development from the requirement for planning permission from councils by increasing permitted development thresholds. This is intended to reduce the administrative and financial burden of the planning system on businesses and the public. The specific benefits include:

- homeowners will not have to meet the costs for planning applications up front or as part of an installation cost for installing domestic heat pumps;

- retail outlets will have greater certainty that they could meet the statutory requirements of the Deposit Return Scheme;
- reduced costs associated with preparing and submitting a planning application; and
- reducing the need for councils to assess planning applications for development with limited impacts allowing them to concentrate on larger development of more strategic benefit to their local area.

## Options

Two options were considered;

Option 1 - Do nothing: make no changes to permitted development rights,  
Option 2 – Extend permitted development rights

## Installation of domestic microgeneration equipment

The Executive published an Energy Strategy on 16 December 2021, and its accompanying Action Plan was published on 20 January 2022. This Action Plan contained a commitment for the Department for Infrastructure to review permitted development legislation for low carbon heat installations to ensure it is up to date and fit for purpose.

The review has now been completed and the Department is proposing changes to the nature and scale of permitted development rights for the installation, alteration or replacement of heat pumps to align with modern standards and requirements.

### Air Source Heat Pumps

Air source heat pumps (ASHP) are a low carbon technology that extract heat energy from the air in order to warm houses and provide hot water. The ASHP Unit essentially needs to be fitted outside the home on a wall or on the ground with enough space to ensure a good flow of air.

Although the position in the other UK planning jurisdictions varies from one to another it is apparent that the current system of permitted development rights in Northern Ireland is the most restrictive.

The Department proposes to amend the permitted development rights so that:

- the air source heat pump must comply with MCS Planning Standards or equivalent standards;
- any part of the air source heat pump would be at least 1 metre from a dwellinghouse;
- the height restriction is increased from 2 metres to 3 metres.

The other restrictions and conditions including those in relation to World Heritage Sites, conservation areas and listed buildings will remain unchanged

### Ground or water source heat pumps

A ground source heat pump (GSHP) needs space for the ground loops for a horizontal collector – the available land needs to be at least two and a half times larger than the entire floor area of the property. There also needs to be space for a plant room to hold the heat pump and cylinder. Because of this, only larger properties or those in a rural location are generally suited to a GSHP. The alternative is to drill a series of vertical boreholes that will carry the ground collector pipe.

A water source heat pump uses submerged pipework to absorb energy from water sources such as lakes, ponds, rivers, aquifers and mine water. It is generally the same unit as a

ground source heat pump, however, the heat source they use and the way they collect the heat is different.

Northern Ireland is currently out of step with the other jurisdictions in relation to ground and water source heat pumps which are currently permitted development in Scotland, England and Wales with no conditions or limitations.

The Department is proposing to align the permitted development rights with Scotland, England and Wales and propose to provide permitted development rights for the provision of a ground or water source heat pump within the curtilage of a dwellinghouse with no conditions or limitations.

### **Reverse Vending Machines**

The Department of Agriculture, Environment and Rural Affairs has plans to introduce a Deposit Return Scheme (DRS) for single-use drinks containers alongside England and Wales in 2024. The scheme aims to change consumer behaviour to encourage higher levels of drinks container recycling where resources are kept in use for as long as possible and waste is minimised.

If retailers are required to apply for planning permission for reverse vending machines outside of their premises it could result in delays to the scheme implementation and represent an additional cost to retailers.

The Department propose adding a new Class D to Part 3 (minor operations) of the Schedule to the GPDO specifically for reverse vending machines subject to certain limitations and condition. The Department is proposing:

- there should be no limit to the number of RVM that can be installed within the curtilage of a shop;
- in the case of a RVM installed in the wall of a shop, any part of the development must not exceed 2 metres beyond the outer surface of that wall or equivalent standards;
- the footprint of the RVM must not exceed 80 square metres;
- it must not face onto and be within 5 metres of a road;
- the RVM must not be situated within 15 metres of the curtilage of a building used for residential purposes; and

the permitted development right would not apply to the proposed installation of a RVM in an area of special scientific interest or a site of archaeological interest or the curtilage of a listed building unless listed building consent has been granted.

### **Preferred Option**

Overall, Option 2 is considered to be the preferred option as it would meet the policy objectives outlined above.

### **Benefits for councils: reduced number / processing of planning applications**

Councils will benefit from a reduced number of planning applications for the types of development which otherwise would previously had fallen beyond the existing permitted development regime, therefore freeing-up resources.

### **Costs to communities: amenity impacts of additional extensions**

Appropriate limitations and conditions to permitted development rights will apply in sensitive areas such as:

- a World Heritage Site;

- a conservation area;
- an area of special scientific interest;
- a site of archaeological interest; or
- within the curtilage of a listed building.

If, in exceptional circumstances, it is clearly demonstrated that the permitted development rights are materially harmful in a particular locality, councils can consult with their communities on using a direction under Article 4 of the Planning (General Permitted Development) Order (Northern Ireland) 2015 ("the 2015 Order") to withdraw the rights. Removal of the rights in exceptional circumstances allows all the potential planning impacts of the development to be considered locally by requiring submission of a planning application(s).

### **Impact on small firms**

There may be positive impacts for small firms who install domestic heat pumps. In addition small firms involved in the supply chains of these firms could benefit.

## Item 9c

### **Draft Response to DFI Public Consultation on Review of Permitted Development Rights – Domestic Microgeneration Equipment & Reverse Vending Machines**

***Overall, these proposed changes are welcomed. It is essential that the Planning System does not act as an obstacle to low carbon heating developments and recycling while at the same time safeguarding our natural (especially protected species) and historic built (especially Listed Buildings & Conservation Areas) environments.***

**Question 1: Do you agree with the above proposals in relation to air source heat pumps?**

#### **ANDBC Response**

**Yes – but with concerns highlighted below**

- The Council acknowledges that it is important to facilitate ASHP as a low carbon technology, removing restrictions as far as possible while ensuring historic and natural environment safeguards are in place;
- However, the Council would express some concern regarding the increase in the height restriction from 2m to 3m as heat pumps can be a somewhat unattractive feature and the Council considers that multiple heat pumps along the elevations of dwellings in a housing development would have the potential to result in visual clutter and cause material harm to the visual amenity of the area.
- The Council is concerned regarding the proposal to enable an ASHP to be able to be installed at a distance of one metre from any dwellinghouse. In higher density developments the Council has concern (as set out in bullet point above) regarding visual impact, but also the cumulative impact regarding noise emissions and welcomes the proposed condition regarding compliance with MCS standards.
- The Council considers that in respect of removal of an ASHP when no longer used to provide heat, the wording '*shall be removed as soon as reasonably practicable*' is too vague and does not supply planning authorities with any reasonable power to seek removal. It is suggested that imposition of a time frame would be more appropriate and easier to seek evidence on.

**Question 2: Do you have any additional amendments which you believe should be included? Please provide reasons**

- See above

**Question 3: Do you agree with the above proposals in relation to ground or water source heat pumps?**

**ANDBC Response**

**No**

- Whilst the Council accepts that the vast majority of ground/water source heat pumps compressor equipment is located inside properties, it is concerned that removal of the 4m height condition for equipment located externally, most especially in urban areas, will lead to lack of appropriate assessment regards visual impact, and in respect of sensitive areas such as listed buildings, conservation areas and Areas of Townscape Character.

**Question 4: If you have any views on whether permitted development rights for domestic wind turbines should be considered please provide details**

**ANDBC Response**

**The Council agrees** with the DfI recommendation not to bring forward proposals at present to provide for permitted development rights. It is considered that such proposals require to be appropriately addressed in terms of such issues as visual amenity, noise, and interference with air navigation systems, the historic built environment and nature/birds etc.

**Question 5: Do you agree with the introduction of a new permitted development right for reverse vending machines?**

**ANDBC Response**

The Council agrees that it is essential to encourage a higher level of drink container recycling; however it queries why permitted development rights would be restricted to shops, when there are many examples of such reverse vending machines located outside businesses and offices, and schools in other jurisdictions.

It is considered that the criterion 'it must not face onto and be within 5 metres of a road' could reduce shop possibilities in city/town centres within this Borough and limit such installations to larger supermarkets.

**Question 6: Do you have any amendments or additional restrictions you would propose to the permitted development right? Please provide reasons**

**ANDBC Response**

- The Council has concerns regarding any such reverse vending machine being able to be installed where it protrudes up to 2 metres beyond the wall of the shop, as they may have implications regarding disability access on footways, or access by prams.
- There is concern regarding resultant visual clutter as well as potential loss of necessary parking/circulation space.
- The limit of 80sqm footprint seems to be excessively large and could potentially have a significant visual impact on an area, especially in relation to conservation areas or areas of townscape character.