

Report on	Public Consultation on Validation Checklist
Date of Meeting	5 th December 2024
Reporting Officer	Karen Doyle, Planning Service Lead - Local Planning
Contact Officer	Karen Doyle

Is this report restricted for confidential business? If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	x

1.0	Purpose of Report
1.1	To report on a letter received from a Director in Department for Infrastructure (DfI) advising of a new Statutory Rule entitled "The Planning (General Development Procedure) (Amendment) Order (NI) 2024 and the powers therein for Council to consider adopting.
2.0	Background
2.1	It is a statutory target that Major planning applications will be processed within 30 weeks and Local applications will be processed with 15 weeks. Mid Ulster District Council has not met the Major target for processing times and since planning powers were transferred to Local Government, Mid Ulster District Council has only met the yearly Local target for processing applications within 15 weeks on three occasions, the last reporting year being 2019/2020.
3.0	Main Report
3.1	A paper was presented to the Planning Committee on 5 March 2024 with suggested measures to improve the performance of the Planning Department in the Council. Members agreed that I could prepare a draft Good Practice Guide and hold a workshop with those who submit planning applications in our district.
3.2	Following the presentation of the paper in March 2024, we were invited to engage with other local authorities on an "in confidence" basis with DfI in the preparation of draft legislation to facilitate a statutory introduction of validation checklists. The proposed workshop agreed by Planning Committee in March 2024 was subsequently paused pending engagement with DfI on their proposed legislation which has now been published.
3.3	In March 2022, the Public Accounts Committee issued a report, "Planning in Northern Ireland". It states that "since the transfer of functions in 2015, planning authorities have failed to deliver on many of their key targets, particularly on major and significant development". The Committee heard that there are opportunities to improve application quality, but these have not been taken either centrally or locally".

<p>3.4</p>	<p>Article 3 of the Planning (General Development Procedure) Order (Northern Ireland (2015) sets out the information that must be contained in an application for planning permission for it to be considered “valid”. The information that is required includes:</p> <ul style="list-style-type: none"> - A written description of the proposal - The address of the application site - The name and address of the applicant and the agent if acting on behalf of the applicant - A plan identifying the application site and its relationship with neighbouring land (otherwise known as the “red line”) - A plan identifying any neighbouring land owned by the applicant (otherwise known as the “blue line”) - Any other plans and drawings necessary to describe the proposed development - A certificate of ownership of the lands - A pre-application community consultation report if it is a development in the Major category - A Design and Access Statement if required by Article 6 of that 2015 Order - The required planning fee
<p>3.5</p>	<p>There are also additional requirements for applications for outline planning permission, approval of reserved matters and renewal of planning permission. Currently there are many policy requirements for additional information contained within the current suite of planning policy statements that are not required by legislation for submission with an application for planning permission. For example, a Flood Risk Assessment, a Transport Assessment, an Odour Assessment, a Noise Impact Assessment and a Design Concept Statement.</p>
<p>3.6</p>	<p>It has become accepted practice by those submitted planning applications in this Council area to submit the minimum information that is required to make an application valid under legislation. This has a significant impact on a case officer’s ability to process planning applications in an expedient manner. It also leads to an outcome of delays in processing planning applications and the ability of the Council to deliver on the statutory targets for both Major and Local planning applications.</p>
<p>3.7</p>	<p><u>Legislative Context</u> On 3 October 2024 Rosemary Daly, DfI Director for Regional Planning Governance and Legislation, write to all Chief Executives and Heads of Planning to advise they have made a statutory rule entitled “The Planning (General Development Procedure) (Amendment) Order (NI) 2024 (see Appendix 1). The Order will come into operation on 1 April 2025.</p>
<p>3.8</p>	<p>The purpose of the Order is to enable local council planning authorities to prepare and publish planning application validation checklists. The additional provisions of the 2024 Order give the Council a statutory power, above the current minimum statutory requirements which would remain unchanged, to set out the additional supporting information/evidence which would be required to accompany different types of planning applications.</p>

3.9	The interim period between now and 1 April 2025 will give the Council time to prepare and consult upon their proposed statutory validation checklists.
3.10	The additional supporting information/evidence which will be required to be submitted with a planning application will be published in the validation checklist. Such a list will set out the additional supporting information required to accompany different types of planning applications made to the Council and will be specific and proportionate to the type of development proposed, including its nature, scale and location. The information required under the 2024 Order must be reasonable to the proposed development and be a material consideration in determining the application. The legislation must be published or reviewed and re-published by the Council every 3 years from the date of first publication.
3.11	When the validation checklist is published all new planning applications will be assessed for their information requirements before being accepted as a valid application. If the Council considers the application has not been accompanied by the information published on the checklist the legislation allows for the Council to issue a non-compliance notice in writing. This notice will set out the reasons for issuing the notice and shall specify the particulars the Council considers reasonable to request.
3.12	<p>The 2024 Order also introduces an appeal mechanism where an applicant has been issued with a non-compliance notice and disagrees with the Council's decision not to validate a planning application. The applicant must submit an appeal to the Planning Appeals Commission within 14 days from the date of the notice and there are four grounds on which an appeal may be brought as follows:</p> <ul style="list-style-type: none"> A) The application was submitted by the information on the checklist; B) The information not submitted was not included on the checklist; C) The information requested under the non-compliance notice is unreasonable; or D) The planning application is not one to which the checklist applies.
3.13	The Planning Appeals Commission may either allow the appeal and the applicant is not required to submit the information contained in the notice, the Planning Appeals Commission may dismiss the appeal thereby requiring the application to be submitted with the information in the notice, or the Planning Appeals Commission may vary the notice, and their decision will be final.
3.14	Once the checklist has been published the date the application will be made valid will be the date on which the last of the required information is submitted in accordance with the validation checklist.
	<u>Public Consultation</u>
3.15	Although there is no legislative requirement for the Council to publicly consult on a proposed validation checklist it is considered good practice. The Planning Service Leads for Local Planning and Strategic Planning will carry out a public consultation exercise through an online questionnaire with agents and feedback from this exercise will help to inform the Mid Ulster Validation Checklist before it

	is brought to Members for adoption. The Planning Service Leads are currently engaging with statutory consultees through the Planning Statutory Consultee Forum.
3.16	The Committee is asked whether it would like a Member Workshop for specific engagement with Members during the consultation process.
3.17	The outcome of the consultation process and the proposed Validation Checklist will be presented before the Planning Committee for feedback before being presented to Policy and Resource Committee for information and it is to be agreed at Full Council.
4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: None
	Human: Consultation process with both agents and statutory consultees
	Risk Management: None identified at present.
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: None identified
	Rural Needs Implications: None identified
5.0	Recommendation(s)
5.1	That Planning Committee agree to the public consultation exercise and consider if a Member Workshop is required with Planning Service Leads.
6.0	Documents Attached & References
	Appendix 1 - Letter from Rosemary Daly, DfI Director for Regional Planning, Governance and Legislation Appendix 2- Copy of The Planning (General Development Procedure) (Amendment) Order (Northern Ireland) 2024.



Department for

Infrastructure

An Roinn

Bonneagair

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Your Ref:

Our Ref:

3 October 2024

Dear Chief Executives & Heads of Planning

Planning Application Validation Checklists

I am writing to advise you that the Department for Infrastructure has made a Statutory Rule entitled "The Planning (General Development Procedure) (Amendment) Order (NI) 2024" (S.R. 2024 No.176), which comes into operation on 1 April 2025. The interim period between laying and making the SR and its commencement is to give time to councils to prepare and consult upon their proposed statutory validation checklists (including engaging with agents in the local area), and to allow the PAC time to develop, consult upon, and put in place its approach to the associated dispute mechanism including drafting potential advice and guidance. A copy of the Order is attached and will be available on the Legislation website in due course: Legislation.gov.uk

This Order amends Articles 3, 5, and 20 of The Planning (General Development Procedure) Order (NI) 2015 (S.R. 2015 No. 72) (the 2015 Order) and introduces a number of new provisions enabling councils to prepare and publish planning application validation checklists to address 'poor quality' or 'incomplete' applications entering the planning system.

A validation checklist will help inform applicants, (above the current minimum statutory requirements which remain unchanged), on the level and type of information required to be submitted with a planning application. Such a list will set out the additional supporting information required to accompany different types of planning applications made to a

council, specific and proportionate to the type of development proposed, including its nature, scale and location.

The Statutory Rule also introduces an associated appeals mechanism in circumstances where an applicant disagrees with a council's decision (by way of notice issued by the council) not to validate a planning application, and is to be conducted upon application, by the Planning Appeals Commission.

The Department has also taken the opportunity (in the amending Order) to make three technical amendments to the 2015 Order, namely: amending the interpretation of 'outline planning permission' in Article 2 to align with the definition of 'outline planning permission' at section 62 of the Planning Act (NI) 2011; and amending Articles 13 and 15 to allow statutory consultees 30 days to consider planning applications that are accompanied by an Environmental Statement. The latter amendments would align the 2015 Order with the timeframes currently required by the Environmental Impact Assessment Regulations (Northern Ireland) 2017. These technical amendments do not represent a new policy, or substantive change to any existing policy.

These provisions form part of the Department's Planning Improvement Programme, arising from the recommendations contained in the First Report on the Implementation of the Planning Act (NI) 2011, and in addition to recommendations contained in both the NIAO and PAC reports on Planning published in 2022.

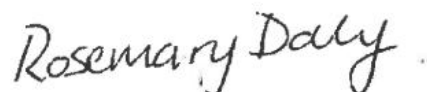
The overall objective of such the amendments is to enhance the quality of applications entering the system, to front-load the decision-making process, resulting in better processing times and more efficient consultee responses.

Finally, I wish to put on record the Department's gratitude to councils for their contributions and assistance in developing the amending legislation.

Copies of the Rule may be purchased from the Stationery Office at www.tsoshop.co.uk or by contacting TSO Customer Services on 0333 202 5070 or viewed online at www.legislation.gov.uk.

I trust you find this information helpful.

Yours sincerely



ROSEMARY DALY
Director

Encl

STATUTORY RULES OF NORTHERN IRELAND

2024 No. 176

PLANNING

**The Planning (General Development Procedure) (Amendment)
Order (Northern Ireland) 2024**

Made - - - - *1st October 2024*

Coming into operation *1st April 2025*

The Department for Infrastructure makes the following Order in exercise of the powers conferred by sections 32, 40(1), 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 Development Procedure) (Amendment) Order (Northern Ireland) 2024 and shall come into operation on 1st April 2025.

Amendment of the Planning (General Development Procedure) Order (Northern Ireland) 2015

2.—(1) The Planning (General Development Procedure) Order (Northern Ireland) 2015(c) is amended in accordance with paragraphs (2) to (9).

(2) In Article 2(1) interpretation—

(a) after the definition of “the Department” insert—

““EIA application” has the meaning assigned to it by regulation 2 of the EIA Regulations”;

(b) for the definition of “outline planning permission” substitute—

““outline planning permission” means planning permission granted in accordance with the provisions of a development order, conditional on the subsequent approval by the council or, as the case may be, the Department of the particulars of the proposed development (referred to in this Order as reserved matters)”.

(3) In Article 3(3) (applications for planning permission)—

(a) in paragraph (3)(h) omit “and”;

(b) in paragraph (3)(i) after “Regulations” omit “.” and insert “; and”;

(c) after paragraph (3)(i) insert—

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

(b) S.R. 2016 No. 76 – see Article 8 and Part 2 of Schedule 5 of the Departments (Transfer of Functions) Order (Northern Ireland) 2016

(c) S.R. 2015 No. 72

“(j) by such particulars and be verified by such evidence, as may be specified by a direction in writing given by a council made under this Order and published on its website.”.

(4) In Article 5 (application for approval of reserved matters)—

- (a) in paragraph (5)(b) after “permission;” omit “and”;
- (b) in paragraph (5)(c) after “required” omit “.” and insert “; and”;
- (c) after paragraph (5)(c) insert—

“(d) shall be accompanied by such particulars and be verified by such evidence, as may be specified by a direction in writing given by a council made under this Order and published on its website.”.

(5) After Article 5 insert—

“Validation particulars specified by direction

5A.—(1) Subject to paragraph 2 the council may specify by direction published on its website what particulars or verifying evidence shall accompany any application—

- (a) for planning permission; or
- (b) for approval of reserved matters.

(2) Paragraph (1) only applies if the direction is—

- (a) reasonable having regard, in particular, to the nature, scale and location of the proposed development;
- (b) about a matter which it is reasonable to think will be a material consideration in the determination of the application; and
- (c) published or reviewed and re-published by the council during the 3 year period immediately before the date on which the application is made.”

(6) After Article 12 (applications made under planning condition) insert—

“Notice confirming non-compliance with direction

12A.—(1) This Article applies where any application is made to the council—

- (a) for planning permission; or
- (b) for approval of reserved matters,

and the council has made a direction under this Order specifying the particulars, or such verifying evidence, which shall accompany the application.

(2) In the case of any application—

- (a) for planning permission mentioned in paragraph (1)(a); or
- (b) an application for approval of reserved matters mentioned in paragraph (1)(b),

the council shall give notice to the applicant if it considers the application has not been accompanied by such particulars, or verified by such evidence, as specified in the direction made under this Order.

(3) A notice given under paragraph (2) shall be in writing and set out the council’s reasons for issuing the notice and shall specify the particulars or evidence as are reasonable for the council to request.

(4) A notice given under paragraph (2) shall be deemed a refusal for an approval required under a development order under section 58(1) of the 2011 Act.

Appeal against a notice of non-compliance with direction

12B.—(1) If a council gives notice to an applicant under Article 12A(2) the applicant may by notice in writing stating the applicable grounds of appeal, appeal to the planning appeals commission.

(2) Any notice under this Article shall be served on the planning appeals commission and the council within 14 days from the date of the council’s notice under Article 12A(2).

(3) The appeal may be brought on any of the following grounds—

- (a) the application was accompanied by such particulars, or was verified by such evidence, as specified in the direction;
- (b) the identified particular, or such evidence verifying the particular, which the council asserts did not accompany the application has not been specified in the direction;
- (c) the council’s request specifying the particulars or evidence under the notice issued under Article 12A(2) is unreasonable; or
- (d) that the application is not one to which the direction applies.

(4) The planning appeals commission may—

- (a) allow the appeal;
- (b) dismiss the appeal; or
- (c) vary the notice issued under Article 12A(2) to give effect to its determination on the appeal.

(5) The planning appeals commission decision on the appeal is final.”

(7) In Article 13(4)(b)(ii) for “28” substitute “30”.

(8) In Article 15(2)(a) after “the period of 21 days” insert “, or 30 days in the case of an EIA application, in either case”.

(9) In Article 20(3) (time periods for decisions)—

- (a) in paragraph (3)(b) omit “and”;
- (b) in paragraph (3)(c) after “council” omit “.” and insert “; and”;
- (c) after paragraph (3)(c) insert—

“(d) any direction made by the council under this Order specifying the validation particulars or verifying evidence which shall accompany the application has been complied with.”.

Sealed with the Official Seal of the Department for Infrastructure on 1st October 2024.



Rosemary Daly
A senior officer of the Department for Infrastructure

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Planning (General Development Procedure) Order (Northern Ireland) 2015 (the 2015 Order), to enable local council planning authorities to prepare and publish planning application validation checklists.

Article 5A is inserted to enable councils to specify by direction validation particulars or verifying evidence that is required by the council to accompany an application for planning permission or for approval of reserved matters.

Article 12A is inserted requiring councils to issue a notice (notice of non-compliance with direction) to an applicant where an application does not comply with the specified information requirements in the direction.

Article 12B is inserted and sets out four grounds for appealing against a notice of non-compliance with direction. Appeals are to be to the Planning Appeals Commission.

This Order includes three technical amendments to the 2015 Order, namely amending the interpretation of ‘outline planning permission’ in Article 2 to align with the definition of ‘outline planning permission’ at section 62 of the Planning Act (Northern Ireland) 2011; and amending Articles 13 and 15 to allow statutory consultees 30 days to consider planning applications that are accompanied by an Environmental Statement. The latter technical amendments would align the 2015 Order with the timeframes currently required by the Environmental Impact Assessment Regulations (Northern Ireland) 2017.

The Explanatory Memorandum is available alongside the instrument on the Government’s legislation website: www.legislation.gov.uk