



Causeway Coast & Glens Borough Council

DfI Public Consultation Document – Permitted Development (PD) for Minerals Exploration	25 th January 2017
PLANNING COMMITTEE	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Outcomes
Leader and Champion	<ul style="list-style-type: none">• Our Elected Members will provide leadership to our citizens, working to promote the Borough as an attractive place to live, work, invest and visit.• We will establish key relationships with Government agencies and potential strategic partners in Northern Ireland and external to it which helps us to deliver our vision for this Council area.
Accelerating our economy and contributing to prosperity	<ul style="list-style-type: none">• The Council will work with its partners to maximise business start-up opportunities and encourage existing enterprises to grow and prosper.
Protecting and enhancing our environments and assets	<ul style="list-style-type: none">• All environments in the area will benefit from pro-active decision making which protects the natural features, characteristics and integrity of the Borough.• Our citizens will have the maximum opportunity to enjoy our natural environments.• Our natural assets will be carefully managed to generate economic and social returns without compromising their sustainability for future generations.
Lead Officer	Principal Planning Officer / Local Development Plan Manager
Cost:	N/A

For Decision

1.0 Background

- 1.1 On 14 March 2016 the former Department of the Environment (DOE) launched a 'Call for Evidence' to help inform the future approach to PD Rights for Mineral Exploration. Members will recall a Workshop held on 12th May 2016 at which this topic was discussed (see presentation attached at Appendix 1).
- 1.2 The Department for Infrastructure (DfI) wrote to Council on 8th December 2016 advising that following this 'Call for Evidence' they have published a public

consultation paper on proposals to amend PD rights in respect of minerals exploration (see letter at Appendix 2 and Consultation Paper at Appendix 3).

- 1.3 DfI has stated that *“Overall the responses support an update of the GPDO in relation to the drilling of petroleum exploration boreholes, to bring the North’s position into line with other jurisdictions”*.
- 1.4 The purpose of the consultation is to obtain views on the Department’s proposal to amend PD rights, including removing PD rights for petroleum exploration (see paragraph 2.9 below). The Department is also seeking views on three minor amendments in respect of PD rights for all mineral exploration (see paragraph 2.14 below).
- 1.5 The period for consultation responses closes at 5pm on 3rd February 2017.

2.0 Detail

Existing PD rights

- 2.1 Currently, under Part 16 of the Schedule to the Planning (General Permitted Development) Order (NI) 2015 (GPDO) there are certain PD rights for mineral exploration - where an application for planning permission is not required. This includes exploration for petroleum.
- 2.2 These PD rights allow development on land in any period (not exceeding 4 months) consisting of drilling boreholes, carrying out seismic surveys or making other excavations.
- 2.3 Any operation within an area of special scientific interest or site of archaeological interest is specifically excluded.
- 2.4 Importantly, there are also certain limitations and conditions associated with this temporary PD right. These restrictions include a requirement for pre-commencement notification to the relevant council planning authority giving details of the location, target mineral, details of plant and operations and anticipated timescale.
- 2.5 A developer, should they wish to exercise these PD rights, must notify the council of the information detailed above in order that a decision can be taken on whether or not the PD right should be removed and the proposal made subject to the full planning application process.
- 2.6 In addition, where development is identified as “EIA” development, PD rights do not apply under Article 3(8) of the GPDO.

Moving forward

- 2.7 In considering the future approach to mineral exploration the Department recognises the differences in nature and scale of operation between energy (petroleum) and non-energy mineral exploration.
- 2.8 The Department considers it is important that the planning system is not overburdened with applications for minor development which can be dealt with through the PD regime. It therefore intends to retain the existing PD rights for non-energy minerals.

Removal of PD rights for petroleum exploration

- 2.9 The Department does, however, recognise the concerns raised by members of the public on the potential impacts of petroleum exploration and seeks views on removing PD rights for this from Class A of Part 16 of the Schedule to the GPDO. Two options are proposed:
- 2.10 **Option 1:** Remove PD rights for the drilling of boreholes for petroleum exploration including the drilling of boreholes preparatory to petroleum exploration.
- 2.11 This option means that the drilling of any borehole in respect of petroleum exploration is not afforded PD rights and, therefore, a planning application must be submitted to the local council. This would bring Northern Ireland in line with the position in Scotland and Wales.
- 2.12 **Option 2:** Remove PD rights for the drilling of boreholes for petroleum exploration but continue to allow PD rights for development preparatory to petroleum exploration (subject to certain limitations) for the drilling of boreholes for the purposes of carrying out groundwater monitoring, seismic monitoring and the locating and appraising the condition of mines.
- 2.13 This option means that the drilling of exploratory boreholes for petroleum is not afforded PD rights and will require a planning application to be submitted to the local council. The drilling of boreholes, however, which are preparatory to potential petroleum exploration, namely groundwater and seismic monitoring and the locating and appraising the condition of mines, would be afforded PD rights and, therefore, a planning application would not be required.

Minor amendments to the PD rights for mineral exploration

Height restriction

- 2.14 Currently in NI the only height restriction for structures permitted under Part 16 of the Schedule to the GPDO is 3 metres where the structure is within 3km of an airport. In Wales and Scotland a general height restriction of 12 metres for

structures allowed under PD rights for mineral exploration applies. A slightly less restrictive limitation of 15 metres (increased from 12 metres in April 2016) applies in England.

- 2.15 To enhance the current safeguards that are in place for PD rights for mineral exploration the Department proposes to introduce a height restriction of 15 metres for any structure assembled or provided.

Extension to 21 day timescale

- 2.16 Part 16 of the Schedule to the GPDO requires a developer who wishes to exercise PD rights for mineral exploration to notify the council in writing giving details of the location of the proposed development, target minerals, details of plant and operations and anticipated timescale.
- 2.17 Within 21 days from the date of receiving the notification from the developer the council can issue a direction under Article 7 of the GPDO removing the PD rights.
- 2.18 The Department considers it appropriate to increase the 21 day timescale under Article 7 to 28 days to align with Environmental Impact Assessment timescales. This will allow Council further time to fully assess whether PD rights under Part 16 of the Schedule to the GPDO should be removed or restricted.

Relevant period

- 2.19 The current PD rights under Part 16 of the Schedule to the GPDO require the developer to notify the council in writing giving details of the location of the proposed development, target minerals, details of plant and operations and anticipated timescale.
- 2.20 The Department proposes to bring forward a technical amendment to introduce a “relevant period” to clarify when the PD right comes into effect and to ensure that mineral exploration is not permitted until the “relevant period” has lapsed.
- 2.21 Under these proposals the relevant period would vary depending on whether an “Article 7 direction” has issued:
- In a case where a direction **is not** issued, the period which ends 28 days after the notification is issued or where the council notifies the developer in writing that such a direction will not be issued, whichever is the earlier; or
 - In a case where a direction **is** issued there is a requirement to notify the Department and allow them 28 days to consider the direction. Therefore, in these circumstances the relevant period will be 28 days from the date on which the notice of that direction is sent to the Department or the date on which the Department disallows the direction, whichever is the earlier.

3.0 Overview

3.1 Overview of Consultation Questions:

Question 1: Do you agree that PD rights should be removed for petroleum exploration?

Question 2: If so, do you consider that the removal of PD rights for mineral exploration for petroleum should be brought forward by Option 1 or Option 2?

Question 3: Do you agree that a height restriction of 15 metres for any structure assembled or provided under Part 16 should be introduced?

Question 4: Do you agree that the 21 day timescale under Article 7 of the GPDO should be increased to 28 days?

Question 5: Do you agree that a “relevant period” should be introduced to Part 16 of the GPDO?

4.0 Recommendation

4.1 IT IS RECOMMENDED that Members note the content of the letter and report and agree to one of the following three options:

Option 1 - Council provides no response;

Option 2 – Hold a workshop to agree a response;


Option 3 – Head of Planning to respond on behalf of Council.

Appendices:

Appendix 1: Workshop Presentation – Call for Evidence

Appendix 2: DfI letter to Councils

Appendix 3: DfI Public Consultation Paper – Review of PD Rights for Mineral exploration.

 Causeway
Coast & Glens
Borough Council

DOE Call for Evidence on Permitted Development rights for Mineral Exploration

Sharon Mulhern
Local Development Plan Manager

www.causewaycouncil.ie

Call for Evidence – Mineral Exploration Permitted Development (PD)

Purpose of presentation:

- ▶ Provide background to the DOE Call for Evidence
- ▶ Explain existing PD rights
- ▶ Seek Members approval to provide response on behalf of Council

Background

- ▶ Increased interest in mineral resources in NI in recent years (e.g. precious and base metals)
- ▶ High profile cases for exploration in Fermanagh, Woodburn, Ballinlea Borehole (1 & 2): members of the public opposed to the proposals
- ▶ Existing PD rights designed over 20yrs ago to deal with the remote possibility of onshore oil and gas exploration involving the conventional techniques
- ▶ The Industry has progressed – rapid change in technology and processes, e.g. unconventional hydrocarbon extraction techniques
- ▶ Significant economic benefits but also potential challenges arising

The Planning (General PD) Order (NI) 2015 (The GPDO): Existing rights

- ▶ **Article 3:**
- ▶ Grants planning permission for a range of minerals development described in its Schedule (Parts 16 & 17) subject to provisions of this Order and Regs 55 & 56 of the Conservation (Natural Habitats etc) Regs (NI) 1995(a).
- ▶ PD rights will not apply to works which constitute EIA development.
- ▶ Does not negate the requirement of a Habitats Regulation Assessment (HRA) in Natura 2000 or European designated sites.
- ▶ Developer must, under Part 2 **The Planning (Management of Waste from Extractive Industries) Regulations (NI) 2010**, prepare a **Waste Management Plan**, detailing how it intends to deal with waste products which arise from the exploration process.
- ▶ Must be submitted before Article 3 submission.

Existing PD rights – Part 16 of Schedule

- ▶ **Class A: Development permitted:** Development on any land during a period not exceeding 4 months consisting of:
 - (a) the drilling of boreholes;
 - (b) the carrying out of seismic surveys; or
 - (c) the making of other excavations.
- ▶ Also for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with these operations.

Existing PD rights – Part 16 of Schedule

- ▶ **Class A: Conditions of PD:**
- ▶ (a) Prior written confirmation to Council of:
 - ▶ the location of the proposed development
 - ▶ target mineral;
 - ▶ details of plant and operations;
 - ▶ anticipated timescales; and
 - ▶ Development to be carried out in accordance with submission
- ▶ (b) No works to trees on site unless council agrees in writing

Existing PD rights - Part 16 of Schedule

- ▶ (c) Top soil and subsoil to be excavated and stored separately from other excavated material (except for a borehole);
- ▶ (d) Within 28 days of cessation (unless otherwise agreed in writing):
 - ▶ Any borehole sealed;
 - ▶ Any excavation filled (material from the site);
 - ▶ Any structure permitted to be removed;
 - ▶ Surface levelled and topsoil replaced as uppermost layer; and
 - ▶ Land to be restored to pre-development condition (as practicable as possible).

Proposals not permitted - Part 16 of Schedule

- ▶ No previous written notification submitted to Council (Class A condition);
- ▶ Operation is within an Area of Special Scientific Interest (ASSI) or Site of Archaeological Interest;
- ▶ Any explosive of more than 1kg is to be used; and
- ▶ Any structure over 3m in height lies within 3km of an airport.

Article 7 Direction

- ▶ Relates to Part 16 only.
- ▶ Council may (within 21 days) give a direction (under Article 7 of GPDO) that the permission granted under Article 3 (PD) should not apply for any of the following reasons:
 - ▶ On land within CA/NP/NR/AO/NB/ASSI/Site of Arch Potential;
 - ▶ Would cause serious detriment to amenity of the area or setting of a Listed Building;
 - ▶ Would cause serious nuisance to inhabitants of nearby residential building/hospital/school; or
 - ▶ Would endanger aircraft using a nearby airport.
- ▶ Council may also need to carry out an EIA determination

Existing PD rights – Part 17: Class A & B

- ▶ **Class A: Development permitted:** development ancillary to mining operations, e.g. plant/machinery/rail line/buildings/services etc.
- ▶ **Class A: Conditions of PD:**
 - ▶ Before the end of 24 months from cessation of mining operations (or any other agreed timeframe):
 - ▶ (a) all permitted buildings, plant and machinery to be removed (unless otherwise agreed); and
 - ▶ (b) land to be restored to its pre-development condition (or as otherwise agreed).

Existing PD rights – Part 17

- ▶ **Class B: Development permitted:** development required for disused mine maintenance or safety, or for ensuring safety of the surface of land adjacent to a mine or disused mine
- ▶ **Class B: No specified conditions of PD.**

Proposals not permitted - Part 17 of Schedule

- ▶ Purpose other than in connection with winning/working of minerals;
- ▶ External appearance of mine materially affected;
- ▶ Building, plant or machinery (not in an excavation) >15m above ground level;
- ▶ Building, plant or machinery (in an excavation) >15m above excavated ground level or >15m above unexcavated ground level;
- ▶ Floor space of any new building >1000sq.m;
- ▶ Floor space of any addition to an existing building > 25% or 1000sq.m
- ▶ Plant or machinery within 250m of sensitive receptor (Classes C1, C2, C3 or D1 UCO);
- ▶ Development within an Area of Special Scientific Interest (ASSI), Site of Archaeological Interest or Conservation Area.

Summary

- ▶ Waste Management Plan must be submitted before Article 3 permission can be granted (under Part 16 & 17 GPDO)
- ▶ Must give written notice Council prior to commencement
- ▶ Council can Issue Article 7 direction – pp required
- ▶ Copy must be sent to person who gave notice
- ▶ Must contain statement of date it comes into force
- ▶ Copy must be sent to Department for Infrastructure (28 days to respond – may disagree)
- ▶ The direction can be cancelled by a subsequent direction

Moving forward

- ▶ Opportunity now exists for all interested parties to express their views on whether the existing rights are still fit for purpose.
- ▶ Evidence received will improve Department's understanding of the operation and the social, environmental and economic impacts of existing PD rights.
- ▶ Need for a balanced approach going forward to:
 - ▶ Facilitate sustainable minerals development
 - ▶ Reduce regulatory burdens on the extractive industries, and
 - ▶ Protect the environment, amenity and safety.
- ▶ Role of planning is key in facilitating this sustainable approach

Consultation Response

- ▶ Question asked by Department:
 - ▶ Do you believe that the existing provisions on PD rights for mineral exploration provide a suitable balance between supporting operational business activity and environmental protection?
- ▶ Options:
 - ▶ Acceptable as is, or
 - ▶ Not acceptable – Why?
- ▶ Public Consultation closes at 5pm this Friday 13th May.
- ▶ Any necessary revisions will follow normal policy development process e.g. public consultation and Assembly scrutiny.

Thank-you

Planning Policy Division

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

8th December 2016

Dear Sir/Madam

CONSULTATION ON PERMITTED DEVELOPMENT RIGHTS FOR MINERAL EXPLORATION

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

The purpose of the consultation is to obtain views on the Department's proposals for amending permitted development rights, including removing permitted development rights for petroleum exploration from Class A of Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015.

Copies of the Consultation Paper may be downloaded from the Planning Portal website at www.planningni.gov.uk or the Departmental website at www.infrastructure-ni.gov.uk. Alternatively you can request a copy by telephone: (028) 90540571 (text relay prefix 18001); by email: ppdconsultations@infrastructure-ni.gov.uk or from the postal address below.

Review of Permitted Development Rights Consultation
Planning Policy Division
Room 1-18
Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

The closing date for the receipt of comments is 3rd February 2017.

Yours faithfully,



ANGUS KERR

Planning Policy Division
Department for Infrastructure
Planning Policy Division
Room 1-01
Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

Review of Permitted Development Rights for Mineral Exploration

Public Consultation



Department for

Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

December 2016

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RESPONDING TO THIS CONSULTATION

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 3rd February 2017 in one of the following ways:

1. **By post** to:

Review of Permitted Development Rights Consultation
Planning Policy Division
Room 1-18
Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

2. **By e-mail** to: ppdconsultations@infrastructure-ni.gov.uk

In keeping with government policy on openness, responses to this consultation may be made available on request or published on the Planning Portal website at www.planningni.gov.uk. Before you submit your response please read Annex F, 'Freedom of Information Act 2000 – Confidentiality of Consultations'.

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 Planning Portal website at www.planningni.gov.uk or the Departmental website at www.infrastructure-ni.gov.uk. Alternatively you can request a copy via the postal or e-mail address above or by telephone on (028) 90540571 (text relay prefix 18001).

This document is available in alternative formats. Please contact us 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.

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 D and E 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

1. In the North of Ireland under Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO) there are certain permitted development rights for mineral exploration where an application for planning permission is not required. This includes exploration for petroleum. These permitted development rights allow development on land in any period not exceeding four months consisting of drilling boreholes, carrying out seismic surveys or making other excavations. Any operation within an area of special scientific interest or site of archaeological interest is specifically excluded.
2. Importantly, there are also certain limitations and conditions associated with this temporary permitted development right. These restrictions include a requirement for pre-commencement notification to the relevant council planning authority giving details of the location, target mineral, details of plant and operations and anticipated timescale. A developer, should they wish to exercise these permitted development rights, must notify the council of the information detailed above in order that a decision can be taken on **whether or not the permitted development right should be removed** and the proposal made subject to the full planning application process.
3. In addition, where development is identified in either of the Schedules to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 and Environmental Impact Assessment is applicable based on the details of the proposed development, permitted development rights do not apply (Article 3(8) of the GPDO refers).
4. This consultation document sets out the Department for Infrastructure's proposals for removing permitted development rights for petroleum exploration from Class A of Part 16 of the Schedule to GPDO.
5. The Department is also seeking views on three minor amendments in respect of permitted development rights for **all** mineral exploration.

BACKGROUND

6. On 14 March 2016 a 'Call for Evidence' was launched to help inform the future approach to Permitted Development Rights for Mineral Exploration. The closing date for responses was 13 May 2016.
7. The Department received a total of 141 responses to the Call for Evidence from a wide range of interests. Of those who expressed views 110 (78%) were opposed to the current permitted development rights, 16 (11%) considered that the current permitted development rights for mineral exploration provide a suitable balance, 5 (4%) indicated that although they support the current permitted development rights they would benefit from some amendment and the remaining 10 (7%) did not hold any particular views. The synopsis of the responses to the 'Call for Evidence' is available to view or download at: www.planningni.gov.uk
8. The North is currently out of step with England, Scotland and Wales where the drilling of petroleum exploration boreholes are specifically excluded from permitted development rights. The planning position in the South of Ireland is that both mineral and petroleum exploration fall under Rural Exempted Development but unlike the North are not subject to planning limitations and conditions. They are controlled by the conditions of the licensing regime, including, an exploration licence, a petroleum prospecting licence or a reserved area licence.
9. Overall the responses support an update of the GPDO in relation to the drilling of petroleum exploration boreholes, to bring the North's position into line with other jurisdictions.
10. The wide and varied range of comments made in relation to specific elements of the current strategic policy provisions have been considered in developing the following proposals.

PROPOSALS

11. On 6 June 2016 the Minister for Infrastructure, responding to a motion calling for the protection of Woodburn Forest, announced in the Assembly that he intended to remove permitted development rights for petroleum (oil and gas) exploration and consult upon proposals for legislative change.

12. In considering the future approach to mineral exploration the Department recognises the differences in nature and scale of operation between energy (petroleum) and non energy mineral exploration. Exploratory drilling for non energy minerals is on a much smaller scale than that carried out for petroleum exploration and has only a short, temporary, impact on the ground. The methods used are different to those used in petroleum exploration, for example, the drill sites have a small footprint in comparison with that required for petroleum exploration well sites which are often almost a hectare in area. In addition, the drilling rigs used are typically much smaller than those used for petroleum exploration and are often towed into position and removed by a 4x4 vehicle.

13. The Department considers it is important that the planning system is not overburdened with applications for minor development which can be dealt with through the permitted development regime. The Department, therefore, intends to retain the existing permitted development rights for non-energy minerals. The Department, however, recognises the concerns raised by members of the public on the potential impacts of petroleum exploration and seeks views on removing permitted development rights for petroleum exploration from Class A of Part 16 of the Schedule to the GPDO. Two options are proposed.

Option 1 (see draft permitted development rights in Annex A)

Remove permitted development rights for the drilling of boreholes for petroleum exploration including the drilling of boreholes preparatory to petroleum exploration.

This option means that the drilling of any borehole in respect of petroleum exploration is not afforded permitted development rights and, therefore, a

planning application must be submitted to the local council. This would bring the North in line with the position in Scotland and Wales.

The complete removal of permitted development rights for petroleum exploration from Class A of Part 16 would mean that developers would not be permitted to drill any type of borehole relating to petroleum exploration without submitting a planning application to the local council. This would include the drilling of boreholes for development which is preparatory to petroleum exploration, such as groundwater monitoring, seismic monitoring and locating and appraising the condition of mines (please see Annex B for further details).

Representations from both the Department for the Economy and the British Geological Survey, although supporting the removal of permitted development rights for petroleum exploration, consider that permitted development rights should remain for the drilling of boreholes for ground water monitoring, seismic monitoring and the locating and appraising the condition of mines which is preparatory to petroleum exploration. Such preparatory drilling for potential petroleum exploration would normally be no more intrusive than that for non-energy minerals which will continue to be allowed under the permitted development rules.

The Department is, therefore, seeking views on a second option to ascertain whether the public consider removing permitted development rights for the drilling of boreholes which are preparatory to petroleum exploration to be appropriate.

Option 2 (see draft permitted development rights in Annex C)

Remove permitted development rights for the drilling of boreholes for petroleum exploration but continue to allow permitted development rights for development preparatory to petroleum exploration (subject to certain limitations) for the drilling of boreholes for the purposes of carrying out groundwater monitoring, seismic monitoring and the locating and appraising the condition of mines.

This option means that the drilling of exploratory boreholes for petroleum is not afforded permitted development rights and will require a planning application to

be submitted to the local council. The drilling of boreholes, however, which are preparatory to potential petroleum exploration, namely groundwater and seismic monitoring and the locating and appraising the condition of mines, would be afforded permitted development rights and, therefore, a planning application would not be required.

The provision of specific permitted development rights for the drilling of boreholes for groundwater monitoring, seismic monitoring and locating and appraising the condition of mines would align the North with England which introduced specific permitted development rights for such development which is preparatory to petroleum exploration in April 2016.

Question 1: Do you agree that permitted development rights should be removed for petroleum exploration?

Question 2: If so, do you consider that the removal of permitted development rights for mineral exploration for petroleum should be brought forward by Option 1 or Option 2?

14. The Department also seeks views on the following minor amendments to the permitted development rights for mineral exploration as a result of the responses received to the Call for Evidence.

Height restriction

15. Currently in the North the only height restriction for structures permitted under Part 16 of the Schedule to the GPDO is 3 metres where the structure is within 3km of an airport. In Wales and Scotland a general height restriction of 12 metres for structures allowed under permitted development rights for mineral exploration applies. A slightly less restrictive limitation of 15 metres (increased from 12 metres in April 2016) applies in England.

To enhance the current safeguards that are in place for permitted development rights for mineral exploration the Department proposes to introduce a height restriction of 15 metres for any structure assembled or provided to Part 16

(permitted development rights for mineral exploration) of the Schedule to the GPDO.

Question 3: Do you agree that a height restriction of 15 metres for any structure assembled or provided under Part 16 should be introduced?

Extension to 21 day timescale

16. Part 16 of the Schedule to the GPDO requires a developer who wishes to exercise permitted development rights for mineral exploration to notify the council in writing giving details of the location of the proposed development, target minerals, details of plant and operations and anticipated timescale.

Within 21 days from the date of receiving the notification from the developer the council can issue a direction under Article 7 of the GPDO removing the permitted development rights under Part 16 if the development:-

- is to be carried out on land which is within or affects—
 - a conservation area;
 - a National Park;
 - a nature reserve;
 - an area of outstanding natural beauty;
 - an area of special scientific interest; or
 - a site of archaeological interest;
- would cause serious detriment to the amenity of the area in which it is to be carried out or would adversely affect the setting of a listed building
- would constitute a serious nuisance to the inhabitants of a nearby residential building, hospital or school; or
- would endanger aircraft using a nearby airport.

The Department considers it appropriate to increase the 21 day timescale under Article 7 to 28 days to align with Environmental Impact Assessment timescales. This will allow councils further time to fully assess whether permitted development rights under Part 16 of the Schedule to the GPDO should be removed or restricted.

Question 4: Do you agree that the 21 day timescale under Article 7 of the Planning (General Permitted Development) Order (Northern Ireland) 2015 should be increased to 28 days?

Relevant Period

17. The current permitted development rights under Part 16 of the Schedule to the GPDO require the developer to notify the council in writing giving details of the location of the proposed development, target minerals, details of plant and operations and anticipated timescale.

The Department proposes to bring forward a technical amendment to introduce a “relevant period” to clarify when the PD right comes into effect and to ensure that mineral exploration is not permitted until the “relevant period” has lapsed.

Under these proposals the relevant period would vary depending on whether a direction has issued:

- In a case where a direction has not been issued under Article 7 of the GPDO, the period which ends 28 days after the notification is issued or where the council notifies the developer in writing that such a direction will not be issued, whichever is the earlier; or
- In a case where a direction **is** issued under Article 7 there is a requirement to notify the Department and allow the Department 28 days to consider the direction. Therefore, in these circumstances the relevant period will be 28 days from the date on which the notice of that direction is sent to the Department or the date on which the Department disallows the direction, whichever is the earlier.

Question 5: Do you agree that a “relevant period” should be introduced to Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015?

Overview of Consultation Questions

Question 1: *Do you agree that permitted development rights should be removed for petroleum exploration?..... 10*

Question 2: *If so, do you consider that the removal of permitted development rights for mineral exploration for petroleum should be brought forward by Option 1 or Option 2?..... 10*

Question 3: *Do you agree that a height restriction of 15 metres for any structure assembled or provided under Part 16 should be introduced? 11*

Question 4: *Do you agree that the 21 day timescale under Article 7 of the Planning (General Permitted Development) Order (Northern Ireland) 2015 should be increased to 28 days? 12*

Question 5: *Do you agree that a “relevant period” should be introduced to Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015? 12*

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

All responses should be made in writing and submitted to the Department no later than 3rd February 2017 in one of the following ways:

By post to:

Review of Permitted Development Rights for Mineral Exploration
Planning Policy Division
Room 1-18
Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

By e-mail to: ppdconsultations@infrastructure-ni.gov.uk

ANNEX A – Draft Part 16 Option 1

PART 16

MINERAL EXPLORATION

Class A Permitted development	A.	Development on any land during a period not exceeding 4 months consisting of— <ul style="list-style-type: none">(a) the drilling of boreholes;(b) the carrying out of seismic surveys; or(c) the making of other excavations; for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.
Development not permitted	A.1	Development is not permitted by Class A if— <ul style="list-style-type: none">(a) it consists of the drilling of boreholes for petroleum exploration;(b) the developer has not previously notified the council in writing giving details of the location of the proposed development, target minerals, details of plant and operations and anticipated timescale(c) any operation is within an area of special scientific interest or site of archaeological interest;(d) any explosive charge of more than 1 kilogram is used;(e) any structure assembled or provided would exceed 15 metres in height;(f) any structure assembled or provided would exceed 3 metres in height where such structure would be within 3 kilometres of an airport;(g) the relevant period has not elapsed.
Conditions	A.2	Development is permitted by Class A subject to the following conditions— <ul style="list-style-type: none">(a) the development shall be carried out in accordance with the details contained in the developer's written notification to the council referred to in paragraph A.1(b), unless the council otherwise

agrees in writing;

- (b) no trees on the land shall be removed, felled, lopped or topped and no other thing shall be done on the land likely to harm or damage any trees, unless the council so agrees in writing;
- (c) before any excavation (other than a borehole) is made, any topsoil and any subsoil shall be separately removed from the land to be excavated and stored separately from other excavated material and from each other;
- (d) within a period of 28 days from the cessation of operations unless the council, in a particular case, agrees otherwise in writing—
 - (i) any borehole shall be adequately sealed;
 - (ii) any excavation shall be filled from material from the site;
 - (iii) any structure permitted by Class A and any waste material arising from development permitted by Class A shall be removed from the land;
 - (iv) the surface of the land on which any operations have been carried out shall be levelled and any topsoil replaced as the uppermost layer; and
 - (v) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting.

Interpretation of Part C
16

For the purposes of Part 16—

“mineral exploration” means ascertaining the presence, extent or quality of any deposit of a mineral with a view to exploiting that mineral;

“petroleum” has the same meaning as given in section 1 of the Petroleum Act 1998;

“relevant period” means the period elapsing—

- (a) where a direction is not issued under article 7, 28 days after the notification referred to in paragraphs A.1(b) or, if earlier, on the date on which the council

notifies the developer in writing that it will not issue such a direction, or

- (b) where a direction is issued under article 7, 28 days from the date on which notice of that decision is sent to the Department, or, if earlier, the date on which the council notifies the developer that the Department has disallowed the direction

“structure” means a building, plant or machinery or other structure.

DRAFT

ANNEX B – Groundwater and seismic monitoring and locating and appraising the condition of mines

Groundwater monitoring

Groundwater monitoring data is central to the protection of groundwater quality which has impacts on humans, animals, surface water, ecology and the wider agri-environment.

The monitoring, which generally consists of the repeated measurements of groundwater levels and taking and chemical analysis of water samples from boreholes over a time interval of months or years, is primarily used to identify variations in the water table and in groundwater quality.

The results from the monitoring of groundwater can provide useful information about the shallow aquifers, including the water table and the groundwater chemistry, which would feed in to the design of a well and the operational programme which would be the basis for a planning application. Water table levels can be used to quantify groundwater resource, to understand groundwater flow and to measure the impacts of abstraction and/or operations. Enabling groundwater monitoring to be put in motion early in the planning process, provides reassurance that the environmental impacts are properly considered in the case of potential petroleum exploration planning applications

The drilling of groundwater monitoring boreholes uses the same methodology, irrespective of whether it relates to energy or non-energy minerals, and is considered low impact and low risk. Generally, in respect of groundwater monitoring for petroleum, the diameter of the borehole would be about 150 millimetres, with the depth of the well varying from between 5 metres to 50 metres, depending on local geological conditions. This means the drilling operations for groundwater monitoring for potential petroleum exploration would be no more intrusive than that of non-energy minerals.

Seismic monitoring

Seismic investigation and monitoring encompasses passive monitoring of both natural seismicity and induced seismicity arising from human activities. Seismic surveys undertaken to provide information about the subsurface geology involve the transmission of a seismic signal into the ground and the detection of the signals that return to the surface after they are reflected from the rock layers below. The seismic signal can be produced by the use of special (Vibroseis) trucks with heavy vibrating pads which send the signal into the ground through the road surface or by the detonation of very small explosive charges placed in shallow holes drilled into the ground.

Mineral exploration which requires the imaging of the subsurface geological strata may benefit from seismic investigations carried out in boreholes as it is important to obtain the full seismic data to inform any proposal for exploration. Generally, in respect of seismic monitoring for petroleum, the depth of the borehole would be between 10 and 15 metres.

Locating and appraising the condition of mines

There are four main areas of historical mining in the North – the iron ore & bauxite mines within the Interbasaltic Formation on the Antrim Plateau, the salt mines of South and East Antrim, and the coalfields of East Tyrone and Ballycastle.

The DfE is responsible for the management of risk to the public, animals, buildings and infrastructure from 2,400+ abandoned mines in Northern Ireland. Drilling is conducted to assess risk and/or to inform mitigation of such risk. DfE has advised that any undue delay, through seeking planning permission, could significantly increase risk to public safety in the interim.

The drilling to locate and appraise the condition of mines does not present the same technical challenges or risks as drilling for the exploration or development of oil or gas but would require a limitation to restrict the depth of borehole drilled.

ANNEX C – Draft Part 16 Option 2

PART 16

MINERAL EXPLORATION

Class A Permitted development

- A. Development on any land during a period not exceeding 4 months consisting of—**
- (a) the drilling of boreholes;**
 - (b) the carrying out of seismic surveys;**
or
 - (c) the making of other excavations;**

for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.

Development not permitted

- A.1** Development is not permitted by Class A if—
- (a) it consists of the drilling of boreholes for petroleum exploration;**
 - (b) the developer has not previously notified the council in writing giving details of the location of the proposed development, target minerals, details of plant and operations and anticipated timescale
 - (c) any operation is within an area of special scientific interest or site of archaeological interest;
 - (d) any explosive charge of more than 1 kilogram is used;
 - (e) any structure assembled or provided would exceed 15 metres in height;**
 - (f) any structure assembled or provided would exceed 3 metres in height where such structure would be within 3 kilometres of an airport;
 - (g) the relevant period has not elapsed.**

Conditions

- A.2** Development is permitted by Class A subject to the following conditions—
- (a) the development shall be carried out in accordance with the details contained in the developer's written notification to the council referred to in paragraph A.1(b), unless the council otherwise

agrees in writing;

- (b) no trees on the land shall be removed, felled, lopped or topped and no other thing shall be done on the land likely to harm or damage any trees, unless the council so agrees in writing;
- (c) before any excavation (other than a borehole) is made, any topsoil and any subsoil shall be separately removed from the land to be excavated and stored separately from other excavated material and from each other;
- (d) within a period of 28 days from the cessation of operations unless the council, in a particular case, agrees otherwise in writing—
 - (i) any borehole shall be adequately sealed;
 - (ii) any excavation shall be filled from material from the site;
 - (iii) any structure permitted by Class A and any waste material arising from development permitted by Class A shall be removed from the land;
 - (iv) the surface of the land on which any operations have been carried out shall be levelled and any topsoil replaced as the uppermost layer; and
 - (v) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting.

**Class B
Permitted
development**

- B. Development on any land consisting of the drilling of boreholes for the purposes of—**
- (a) **carrying out groundwater monitoring;**
 - (b) **carrying out seismic monitoring; or**
 - (c) **locating and appraising the condition of mines,**

which is preparatory to potential petroleum exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those drilling, monitoring, or locating and appraising operations.

**Development not
permitted**

- B.1 Development is not permitted by Class B if—**
- (a) the developer has not previously notified the council in writing of its intention to carry out the development (specifying the nature and location of the development);
 - (b) any operation is within an area of special scientific interest or site of archaeological interest;
 - (c) any explosive charge of more than 1 kilogram is used;
 - (d) any structure assembled or provided would exceed 15 metres in height;
 - (e) any structure assembled or provided would exceed 3 metres in height where such structure would be within 3 kilometres of an airport; or
 - (f) in the case of boreholes for locating and appraising the condition of mine operations, the borehole exceeds 160 metres in depth;
 - (g) the relevant period has not elapsed.

Conditions

- B.2 Development is permitted by Class B subject to the following conditions—**
- (a) the development shall be carried out in accordance with the details contained in the developer's written notification to the council referred to in paragraph B.1(a), unless the council otherwise agrees in writing;
 - (b) no trees on the land shall be removed,

felled, lopped or topped and no other thing shall be done on the land likely to harm or damage any trees, unless the council so agrees in writing;

- (c) within a period of 28 days from the cessation of operations unless the council, in a particular case, agrees otherwise in writing—
 - (i) any borehole shall be adequately sealed;
 - (ii) any structure permitted by Class B and any waste material arising from development permitted by Class B shall be removed from the land;
 - (iii) the surface of the land on which any operations have been carried out shall be levelled and any topsoil replaced as the uppermost layer; and
 - (iv) the land is, so far as is practicable, restored to its condition before the development took place, including the carrying out of any necessary seeding and replanting; and
- (d) the development ceases no later than a date which is—
 - (i) in the case of Class B(a) development, 24 months; and
 - (ii) in the case of Class B(b) and Class B(c) development, 4 months,after the elapse of the relevant period, unless the council has otherwise agreed in writing.

Interpretation of Part C
16

For the purposes of Part 16—

“mineral exploration” means ascertaining the presence, extent or quality of any deposit of a mineral with a view to exploiting that mineral;

“petroleum” has the same meaning as given in section 1 of the Petroleum Act 1998;

“relevant period” means the period elapsing—

- (a) where a direction is not issued under article 7, 28 days after the notification referred to in paragraphs A.1(b) and B.1(a) or, if earlier, on the date on

which the council notifies the developer in writing that it will not issue such a direction, or

- (b) where a direction is issued under article 7, 28 days from the date on which notice of that decision is sent to the Department, or, if earlier, the date on which the council notifies the developer that the Department has disallowed the direction

“structure” means a building, plant or machinery or other structure.

ANNEX D – 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>

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 for mineral exploration
Is this an existing, revised or a new policy? Amendment to a existing policy
What is it trying to achieve? (intended aims/outcomes) Remove permitted development rights for the drilling of boreholes for petroleum exploration.
Are there any Section 75 categories which might be expected to benefit from the intended policy? No If so, explain how.
Who initiated or wrote the policy? The policy was written by Planning Policy Division of the Department for Infrastructure
Who owns and who implements the policy? Department for Infrastructure
Background A Call for Evidence on Permitted Development Rights for Mineral Exploration closed on 13 th May 2016. Minister Chris Hazzard announced

in the Assembly on 6 June 2016 that he intended to remove permitted development rights for petroleum exploration. This will mean that a planning application will be required for the drilling of boreholes in respect of petroleum exploration.

Implementation factors

Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision? **No**

If yes, are they

financial

legislative

other, please specify _____

Main stakeholders affected

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

staff

service users

other public sector organisations

voluntary/community/trade unions

other, please specify - Minerals industry, in particular those involved in petroleum exploration

Other policies with a bearing on this policy

- what are they?

No policies of direct significance

- who owns them?

N/A

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.

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

Section 75 category	Details of evidence/ information
Religious belief	There is no evidence of higher or lower uptake of this section 75 group. As part of the statutory procedure, the screening form will be included in the Department's quarterly consultation exercise with section 75 consultees. Any issues identified at this stage relating to section 75 groups will be fully considered.
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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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 for each of the Section 75 categories

Section 75 category	Details of needs/experiences/priorities
Religious belief	There are no specific needs identified for this group.
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? minor/major/none		
Section 75 category	Details of policy impact	Level of impact? minor/major/none
Religious belief	The proposed amendment does not impact on equality of opportunity within this category.	None
Political opinion	As above	None
Racial group	As above	None
Age	As above	None
Marital status	As above	None
Sexual orientation	As above	None
Men and women generally	As above	None
Disability	As above	None
Dependants	As above	None

2 Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories?		
Section 75 category	If Yes , provide details	If No , provide reasons
Religious belief		There is no opportunity to better promote equality of opportunity for any section 75 group
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

3 To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group?
minor/major/none

Good relations category	Details of policy impact	Level of impact minor/major/none
Religious belief	No evidence of possible impact on good relations.	None
Political opinion	As above	As above
Racial group	As above	As above

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

Good relations category	If Yes , provide details	If No , provide reasons
Religious belief		There are no identified opportunities to promote good relations between persons in this category.
Political opinion		As above
Racial group		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*).

No

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 negative impacts associated with this policy. There is no evidence that existing or revised 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. As part of the statutory process this screening form will also be circulated to Section 75 bodies. Any issues identified relating to any Section 75 group will be fully considered.

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.

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	Rating (1-3)
Effect on equality of opportunity and good relations	
Social need	
Effect on people's daily lives	
Relevance to a public authority's functions	

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?

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:	Position/Job Title:	Date:
David Doherty	DP	15/09/2016
Approved by:		
Irene Kennedy	Grade 7	21/11/2016

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?	
Date returned to Business Area:	
Date final version received:	
Date placed on S75 Screening Webpage:	

ANNEX E – Preliminary Regulatory Impact Assessment

Title: The Planning (General Permitted Development) (Amendment No.2) Order (Northern Ireland) 2017	Regulatory Impact Assessment
	Date:
	Type of measure: Subordinate
Lead department or agency: Department for Infrastructure	Stage: Existing legislation
	Source of intervention: Domestic
Other departments or agencies:	Contact details: Irene Kennedy
	Planning Policy Division Room 1 - 01 Clarence Court 10-18 Adelaide Street Belfast BT2 8GB

Summary Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

(7 lines maximum)

On 14 March 2016 a 'Call for Evidence' was launched to help inform the future approach to permitted development rights for mineral exploration. This exercise was intended to improve the Department's understanding of the operation and impact of the existing permitted development rights for mineral exploration set out in Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO) and provide up-to-date evidence on the social, environmental and economic impacts of these permitted development rights. The "Call for Evidence" was prompted following public concerns about a petroleum exploration site at Woodburn Forest, Carrickfergus.

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

The aim is to remove the permitted development rights for the drilling of boreholes for petroleum exploration. This would mean that the drilling of boreholes in respect of petroleum exploration is not afforded permitted development rights and therefore a planning application must be submitted to the local council. Currently the North is out of step with the England, Scotland and Wales where the drilling of petroleum exploration boreholes are specifically excluded from permitted development rights. This change will mean petroleum exploration boreholes will be subject to the full planning application process and will bring the North's position into line with all other jurisdictions.

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 for consideration that will fulfil the Ministerial commitment to remove permitted development rights for petroleum (oil and gas) exploration:

- Remove permitted development rights for the drilling of boreholes for petroleum exploration including the drilling of boreholes preparatory to petroleum exploration; or
- Remove permitted development rights for the drilling of boreholes for petroleum exploration but continue to allow permitted development rights for development preparatory to petroleum exploration (subject to certain limitations) for the drilling of boreholes for the purposes of carrying out groundwater monitoring, seismic monitoring and the locating and appraising the condition of mines.

Will the policy be reviewed? Yes	If applicable, set review date: Ongoing

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
Relevant planning fee	N/A	N/A

Does Implementation go beyond minimum EU requirements?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
Are any of these organisations in scope?	Micro Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Small Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
	Medium Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Large 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: _____

Description:

ECONOMIC ASSESSMENT (Option)

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	£3650.00		£3650.00

Description and scale of key monetised costs by ‘main affected groups’

Maximum 5 lines

Permitted development grants a general planning permission for certain, often minor, non-contentious types of development. Permitted development is seen to be a deregulatory mechanism removing the need to complete and submit a planning application along with any associated fee. Removing permitted development rights for petroleum exploration will result in an extra cost for the industry in one off planning fees and the possible requirement to undertake pre-application community consultation. The above costs are per application based on a 1 hectare site. If the application was to be considered EIA development there would be an additional fee of £10,632. However EIA development is specifically excluded from permitted development so this would not result in extra cost for the applicant.

Other key non-monetised costs by ‘main affected groups’ Maximum 5 lines

The removal of permitted development rights will increase the administrative burden on business to submit an application seeking planning permission and await a council’s determination. It might also be the case (depending on the area of the site) that a 12 week pre-application community consultation would be required.

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			

Description and scale of key monetised benefits by ‘main affected groups’

Maximum 5 lines

None

Other key non-monetised benefits by ‘main affected groups’ Maximum 5 lines

The submission of a planning application (and Pre Application Community Consultation if required) will better inform local communities about major development proposals for petroleum exploration. Pre application community consultation will provide the community with an opportunity to contribute their views before a formal planning application is submitted. It will facilitate meaningful public engagement upfront and in so doing improve the quality of planning applications, mitigate negative impacts where possible and address community issues or misunderstandings.

Key Assumptions, Sensitivities, Risks Maximum 5 lines

Permitted development grants a general planning permission for certain, often minor, non-contentious types of development. It is not unreasonable to assume that removing the existing permitted development rights for petroleum exploration would be positive overall and ensure that sensitivities and risks associated with this type of development are subject to the full rigours of the planning system, including environmental impact assessments and public consultation.

BUSINESS ASSESSMENT (Option)

Direct Impact on business (Equivalent Annual) £m

Costs: £3650.00	Benefits:	Net:£3650.00		
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Cross Border Issues (Option)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines

Removing the permitted development rights for petroleum exploration will bring the North in line with England, Scotland and Wales. The procedures for mineral exploration in the South of Ireland are different to those in the North. In the South both mineral and petroleum exploration fall under Rural Exempted Development and are controlled by the conditions of the licence granted and unlike the North there are no planning conditions set out for either mineral or petroleum exploration.

Evidence Base

There is discretion for departments and organisations as to how to set out the evidence base. It is however desirable that the following points are covered:

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing), with reference to the evidence base to support the option selection;
- Monetised and non-monetised costs and benefits of each option (including administrative burden);
- Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach);
- Risks and assumptions;
- Direct costs and benefits to business;
- Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE)

Problem under consideration

The planning system provides a mechanism through which the impacts can be taken into consideration when new development is proposed. It 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.

Where a development is non-contentious, 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 on business and other applicants that are disproportionate with the 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 council's scrutiny of development proposals with little or limited adverse impact is removed using permitted development rights which are set out in the Schedule of the Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO)

Part 16 of the Schedule to the GPDO provide certain permitted development rights for Mineral Exploration where planning permission is not required. This includes exploration for petroleum. These permitted development rights allow development on land in any period not exceeding four months consisting of drilling boreholes, carrying out seismic surveys or making other excavations.

The issues raised around the exploratory drilling for petroleum at Woodburn forest highlighted the need for change and the need to ensure that permitted development rights are fit for purpose. The current permitted development rights for mineral exploration cover both non-energy minerals, for example, precious metals and

energy minerals, for example oil and gas. The process used for oil and gas exploration is very different from that used for non-energy minerals. Much bigger drill rigs and larger site areas are required in these explorations and the size and depth of borehole drilling also varies greatly with potential for greater environmental impact.

Rationale for intervention

On 14 March 2016 a 'Call for Evidence' was launched to help inform the future approach to Permitted Development Rights for Mineral Exploration. Overall the responses supported an update of the GPDO in relation to the drilling of petroleum exploration boreholes.

The Minister in his speech in the Assembly on 6 June 2016, responding to a motion calling for the protection of Woodburn Forest, announced the proposal to remove permitted development rights for oil and gas exploration.

Removing the drilling of boreholes for oil and gas exploration from permitted development rights will bring the North in line with the position in England, Scotland and Wales where the drilling of petroleum exploration boreholes are specifically excluded from permitted development rights.

Policy objective

The policy objective is to remove the permitted development rights for the drilling of boreholes for petroleum exploration. This would mean that the drilling of boreholes in respect of petroleum exploration is not afforded permitted development rights and therefore a planning application must be submitted to the local council which would be subject to the full rigours of the planning system, including environmental impact assessments (where applicable) and public consultation.

Options considered

Essentially there are two options for consideration that will fulfil the Ministerial commitment to remove permitted development rights for petroleum (oil and gas) exploration:

- Remove permitted development rights for the drilling of boreholes for petroleum exploration including the drilling of boreholes preparatory to petroleum exploration; or
- Remove permitted development rights for the drilling of boreholes for petroleum exploration but continue to allow permitted development rights for development preparatory to petroleum exploration (subject to certain limitations) for the drilling of boreholes for the purposes of carrying out groundwater monitoring, seismic monitoring and the locating and appraising the condition of mines.

Three further minor amendments are being proposed to the permitted development rights for mineral exploration generally as a result of the responses received to the Call for Evidence. These are:

- extend the 21 day timescale provided for councils to issue directions restricting permitted development under Part 16 to 28 days to allow further time for councils consideration;
- introduce a new height restriction for mineral exploration PD; and
- a technical amendment to the GPDO to provide a 'relevant period' to ensure that the permitted development right could not be exercised until the council have fully considered the proposed development and decided whether or not to remove or restrict the permitted development right by issuing a direction under Article 7 of the GPDO. This will ensure that the council has adequate time (28 days) to consider the notification before making a decision and notifying the Department if they decide a direction is appropriate.

Monetised costs

Removing permitted development rights for petroleum exploration will result in an extra cost for the industry in planning fees and the possible requirement to undertake pre-application community consultation.

The cost per application can be based on taking an average site size of 1 hectare for petroleum exploration. Based on the current fees for the carrying out of any operations connected with exploratory drilling for oil and gas the application cost would be as follows:

£365 per 0.1 hectare of the site area - per 1 hectare site - £365 x 10 = £ 3650.00 per application

There are no figures held for the actual numbers in relation to exploratory petroleum drilling carried out under permitted development rights.

Sites that are or exceed 1 hectare would fall in to the category of major development and would therefore be subject to pre-application community consultation.

The primary cost of pre-application community consultation for prospective applicants relate to compliance with any requirements set out in the Department's or council's response to the proposal of application notice. The statutory minimum requirements for the consultation will be to hold at least one public event in the locality and arrange local advertising. Whilst an estimate of the cost of undertaking the statutory minimum is calculable, this is not so for any additional requirements set out by the Department or council, which should be proportionate to the nature, extent and location of the proposed development and the likely effects both at and in the vicinity of that location.

Prospective applicants/Developers will incur costs in consulting, convening and supporting public events, arranging local advertising and completion of proposal of application notice and pre-application consultation report for the council or as the case maybe the Department

Possible costs for applicants/developers of a public event are indicated below:

- venue hire - £200;
- preparation of materials – contingent on standard, numbers and dissemination;
- staff/consultants time – contingent on staff levels; and
- advertising - £200.

For local communities and community groups, if they wish to attend the public event arranged by the prospective applicant/developer, there will be marginal costs in preparing for, travelling to and contributing to pre-application events.

Department/ Councils will incur the costs of handling, processing and responding to the proposal of application notices. This cost should be offset later in the process through better prepared application proposals, leading to more efficient processes and shorter processing times.

Benefits

The submission of a planning application (and Pre Application Community Consultation if required) will better inform local communities about major development proposals for petroleum exploration. Pre application community consultation will provide the community with an opportunity to contribute their views before a formal planning application is submitted. It will facilitate meaningful public engagement upfront and in so doing improve the quality of planning applications, mitigate negative impacts where possible and address community issues or misunderstandings

Non-monetised costs

The removal of permitted development rights will increase the administrative burden on business to submit an application seeking planning permission and await a council's determination. It might also be the case depending on the area of the site that a 12 week pre-application community consultation would be required. In the Woodburn forest case, however, the time from being awarded a petroleum licence and the actual exploratory drilling taking place was in the region of 5 years so the timescales involved in pre-application consultation and awaiting the determination of a planning application should not cause any significant delay.

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. The views of the public will be invited on the screening analysis through the consultation paper.

Small Business Impact Test

All businesses that undertake petroleum exploration will be affected by the removal of the permitted development rights but the Department does not expect the

proposals to impact adversely upon small businesses. Small businesses and their representatives will be consulted as part of the wider public consultation.

Rural Proofing

There will be no significant differential impact of the proposals between urban and rural areas because of the specific scope of the changes.

ANNEX F – Freedom of Information Act

Freedom of Information Act 2000 – Confidentiality of Consultations

1. Please note that the Department may publish responses to this Consultation Document or a summary of responses. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.
2. The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential. If you do not wish information about your identity to be made public please include an explanation in your response.
3. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:
 - the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
 - the Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature; and
 - acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.
4. For further information about confidentiality of responses please contact the Information Commissioner's Office (or see web site at: <https://ico.org.uk/>).

ANNEX G – Consultee List

20:20 Architects
Action on Hearing Loss
Action Renewables
Age NI
An Munia Tober
Aquaculture Initiative EEIG
Archbishop Of Armagh & Primate Of All Ireland
Arcus Architects
Arqiva
Association for Consultancy and Engineering
Atlas Communications
Autism NI
B9 Energy Services Ltd
Bahai Council for NI
Bar Library
Barnardos NI
BBC Engineering Information Department
Belfast Butterfly Club
Belfast Civic Trust
Belfast Harbour Commissioners
Belfast Hebrew Congregation
Belfast Healthy Cities
Belfast Hills Partnership
Belfast International Airport
Belfast Metropolitan College
Belfast Metropolitan Residents Group
Belfast Solicitors Association
Brennen Associates
British Deaf Association (NI)
British Telecom (NI)
Bryson House
Building Design Partnership
Cable & Wireless Communications
Campaign for Better Transport
Cara Friend
Carers Northern Ireland
Carey Consulting
Catholic Bishops of NI
Causeway Coast & Glens Heritage Trust
Chartered Institute of Architectural Technologists
Chartered Institute of Environmental Health
Chartered Institute of Housing
Chief Executive of the NI Judicial Appointments Commission
Chief Officers 3rd Sector
Children's Law Centre

Chinese Welfare Association
Church of Ireland
Chrysalis Women's Centre
Coiste – Na N-iarchimi
City of Derry Airport
Civil Aviation Authority
Civil Law Reform Division
Coleraine Harbour Commissioners
Committee for the Administration of Justice
Communities and Local Government
Community Development and Health Network (NI)
Community Places
Community Relations Council
Confederation of British Industry, NI Branch
Construction Employers Federation
Construction Register Ltd
Council for Catholic Maintained Schools
Countryside Access & Activities Network for NI
Courts and Tribunal Services
Crown Castle UK Ltd
Cruse Bereavement Care (NI)
Derryhale Residents' Association
Derry Well Woman
Development Planning Partnerships
Disability Action
Down's Syndrome Association
Energy Saving Trust Northern Ireland
Enniskillen Airport
Environment and Planning Law Association of NI
Environmental Health Services Department
Equality Coalition
Equality Commission for NI
Falls Community Council
Falls Women's Centre
Family Planning Association NI
Federation of Small Businesses
Ferguson & McIlveen
Fisher German LLP
Food Standards Agency NI
Foyle Women's Information Network
Friends of the Earth
Geological Survey of Northern Ireland
George Best Belfast City Airport
Gingerbread Northern Ireland
Health and Safety Executive Northern Ireland
Health And Social Services Boards and Trusts
HM Council of County Court Judges
HM Revenue & Customs
Human Rights Commission
Indian Community Centre

I-Document Systems
Information Commissioners Office
Institute of Professional Legal Studies
Institute Of Directors
Institute of Historic Building Conservation
Institution of Civil Engineers (NI Association)
International Tree Foundation
Invest NI
Kenneth Crothers, Deane & Curry
Lagan Valley Regional Park Officer
Landscape Institute NI
Larne Harbour Commissioners
Law Centre (NI)
Liz Fawcett Consulting
Local Government Staff Commission NI (LGSC)
Londonderry Port & Harbour Commissioners
Lord Chief Justice Office
Lough Neagh and Lower Bann Management Committees
LPG Association
Magherafelt Women's Group
Magistrates Court
Manufacturing Northern Ireland
Marks and Spencer
McClelland/Salter Estate Agents
MENCAP
Mens Action Network
Methodist Church In Ireland
Michael Burroughs Associates
Ministerial Advisory Group for Architecture and the Built Environment in
Northern Ireland
Ministry of Defence
Mobile Operators Association
Mono Consultants Limited
Mourne Heritage Trust
Multi-Cultural Resource Centre
National Air Traffic Services (NATS)
National Society for the Prevention of Cruelty to Children (NSPCC)
National Trust
Newry and Mourne Women Limited
Newtownards Aerodrome
NI Association for Mental Health
NI Association of Citizens Advice Bureau
NI Chamber of Commerce and Industry
NI Chamber of Trade
NI Independent Retail Trade Association
NI Islamic Centre
National Pensioners Convention, NI
NI Women's Aid Federation
NI Women's European Platform
NIACRO

NIC/ICTU
NICARE
NICOD
NIPSA
North West Architectural Association
Northern Builder
Northern Ireland 2000
Northern Ireland Agricultural Producers Association
Northern Ireland Ambulance Service
Northern Ireland Amenity Council
Northern Ireland Association Engineering Employer's Federation
Northern Ireland Blood Transfusion Service Agency
Northern Ireland Council For Ethnic Minorities
Northern Ireland Court Service
Northern Ireland District Councils
Northern Ireland Economic Council
Northern Ireland Education and Library Boards
Northern Ireland Electricity Plc
Northern Ireland Environment Committee
Northern Ireland Environment Link
Northern Ireland Federation of Housing Associations
Northern Ireland Fire and Rescue Service
Northern Ireland Government Departments
Northern Ireland Housing Council
Northern Ireland Housing Executive
Northern Ireland Law Commission
Northern Ireland Local Government Association
Northern Ireland MP's, MEP's, Political Parties and MLA's
Northern Ireland Office
Northern Ireland Public Health Agency
Northern Ireland Quarry Products Association
Northern Ireland Regional Medical Physics Agency
Northern Ireland Women's Rural Network
Northern Ireland Tourist Board
Northern Ireland Water Ltd
NSMC-NI Secretariat
O2
OFCOM
OFMDFM Central Management Unit (CMU)
Office of Attorney General for Northern Ireland
Orange
Ostick and Williams
Parenting NI
Participation & the Practice of Rights Project
Participation Network NI
Phoenix Natural Gas Ltd
Planning Appeals Commission
Planning Magazine
Playboard N.I. Ltd
POBAL

Policing Board Of Northern Ireland
Polish Association
Pragma Planning
Presbyterian Church In Ireland
PSNI
Quarryplan Ltd
Queens University
Renewable UK
Respondents to Call For Evidence on Permitted Development Rights for
Mineral Exploration
RICS NI
Rivers Agency
RJM Architects
Robert Turley Associates
Royal National Institute of Blind People (RNIB)
Royal Society for Protection of Birds
Royal Society of Ulster Architects
Royal Town Planning Institute
Royal Town Planning Institute (Irish Branch, Northern Section)
RPS Group PLC
RTPI Irish Branch (Northern Section)
Rural Community Network
Rural Development Council for Northern Ireland
Rural Support
Save the Children
Scottish Government
SENSE NI
Society of Local Authority Chief Executives
Southern Waste Management Partnership
Sport NI
Statutory Advisory Councils (including Historic Buildings Council, Historic
Monuments Council and Council for Nature Conservation and the
Countryside)
Strangford Lough Advisory Council
Strangford Lough Management Committee
Sustrans
The Architectural Heritage Fund
The Board of Deputies of British Jews
The Cedar Foundation
The Commissioner for Older People for Northern Ireland
The Executive Council of the Inn of Court of NI
The General Consumer Council for NI
The Guide Dogs for the Blind Association
The Law Society of Northern Ireland
The NI Commissioner for Children and Young People
The NI Council for Voluntary Action
The Rainbow Project
The Senior Citizens Consortium Sperrin Lakeland
The Utility Regulator
The Women's Centre

Three
T-Mobile
Todd Planning
Town and Country Planning Association
Training for Women Network Ltd
Translink
Travellers Movement NI
Turley Associates
Tyrone Brick
Ulster Angling Federation
Ulster Architectural Heritage Society
Ulster Farmers' Union
Ulster Wildlife Trust
ULTACH
UNISON
University of Ulster
Urban and Rural Planning Associates
UTV Engineering Information Department
Virgin Media
Vodafone Ltd
Volunteer Now
Warrenpoint Harbour Authority
Waterways Ireland
Welsh Government
WDR & RT Taggart
Western Group Environmental Health Committee
Wildfowl and Wetland Trust
Women's Forum NI
Women's Resource and Development Agency
Women's Support Network
Woodland Trust
World Wildlife Fund (NI)
Youth Council For Northern Ireland



