

Review of Permitted Development Rights for Mineral Exploration

Comments by
Northern Ireland Environment Link

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Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the environment of Northern Ireland. Its 70+ Full Members represent over 90,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

These comments are made on behalf of Members, but some members may be providing independent comments as well. If you would like to discuss these comments further we would be delighted to do so.

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NIEL welcomes the opportunity to engage with the Department on the Review of Permitted Development Rights. Changes to the NI landscape under Permitted Development can pass ‘under the radar’, and small cumulative changes can lead to significant overall alterations to landscape character. This is an important pressure for change that needs to be considered, given that our landscape character is such a driver for tourism, and potentially for other forms of inward investment. This issues raises the need for a Land Strategy in Northern Ireland, as championed by the Land Matters Task Force, to ensure that land use decisions are underpinned by a more holistic and strategic appreciation of our land resource.

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

Yes.

The Woodburn Forest case demonstrated that exploratory drilling for petroleum (oil and gas) is not always minor in nature or scale and subsequent environmental impact. It is evident that this type of activity needs further regulation in addition to the licensing and consents currently required.

No strategic environmental assessment has been carried out for oil and gas exploration in Northern Ireland. In the absence of such an assessment robust procedures are required to regulate any attempts to undertake this form of development.

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?

Option 1 is the preferred option as it provides certainty to the public, the developer and regulator (Council or Department) that drilling of any boreholes relating to petroleum exploration requires planning permission. Even with limitations imposed, it would be difficult for members of the public and perhaps even the regulator to distinguish correctly between the types of boreholes. To allow drilling of boreholes for preparatory works under PDR, is effectively a “backdoor” for continuing unregulated exploration.

Given the level of suspicion and distrust generated by the Woodburn example, there is an urgent need to exercise the highest levels of openness, transparency and inclusiveness in future cases. Permitted development does not allow the public to be included from the outset of a proposed development which goes against the principles of the Aarhus Convention¹ as well as the newly imbedded community planning approach. The drilling of bore holes for preparatory activities under permitted development could generate false public perceptions leading to suspicion, rumours, misinformation and public protest. By ensuring that all activities (both exploratory and preparatory) are subject to the full rigours of the planning process, the planning system can play a key role in helping to minimise conflict and community tensions.

¹ <http://ec.europa.eu/environment/aarhus/>

While preparatory bore holes would be smaller than exploratory bore holes, there is little indication about the number of bore holes that would be permitted. There is no way of measuring the cumulative environmental impact of preparatory bore holes without imposing a requirement to submit a planning application.

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

If our preferred option 1 is implemented a height restriction is not relevant as all works and structures under this option would require planning approval. In the event that option 2 is implemented, we would support the introduction of a height restriction. A 12m height restriction, as applied in Scotland and Wales, would be preferred to keep visual landscape impact to a minimum.

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?

This question is not relevant under Option 1 as PDR for mineral exploration would be removed.

If the Department brings forward Option 2 and there remains PDR for the drilling of boreholes for preparatory exploration, then the period of time to make an assessment on whether PDR should be removed or restricted should be increased to 28 days. This should allow Council's to fully consider the application and help reduce instances of development proceeding by default due to Council's failing to issue a Directive on time.

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?

Yes. If the Department brings forward Option 2 and there remains PDR for the drilling of boreholes for preparatory activities, then a "relevant period" can take into account both scenarios, i.e. when a direction is and is not issued under Article 7. It should be introduced to provide clarity and certainty on when PDR comes into effect.

Other Comments

Under Annex C, the instances where development should not be permitted should be extended to include Areas of Outstanding Natural Beauty.

Landscapes in Northern Ireland are under increasing strain from socio-economic and biophysical pressures. Indeed, landscape integrity is being jeopardised by a planning and regulatory system that lacks strategic vision and guidance along with inconsistent and relatively poorly resourced arrangements for landscape management services. For example, unlike other parts of the UK, AONB's in Northern Ireland receive limited protection through the planning system, AONB management bodies in Northern Ireland are primarily non-statutory and are poorly resourced in their extent and security of funding. In this context the NI Land Matters Task Force is calling for a NI

Land Strategy² to underpin a more strategic approach to how our precious and finite land resource is planned, managed and used. Having secured cross-party support for such a strategy, we would welcome conversations with the Department to consider how this important issue can be progressed.

In terms of site restoration, clarification is required around what the 'cessation of activities' means.

The legislation could also make clear the circumstances where a mining waste management plan may be required.

² <http://www.nienvironmentlink.org/policy-hub/landscape-task-force.php>