EXPLANATORY MEMORANDUM TO

THE PLANNING (GENERAL DEVELOPMENT) (AMENDMENT NO.2) ORDER (NORTHERN IRELAND) 2013

2013 No. 210

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of the Environment to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.

1.2 This Statutory Rule is made under Article 13 of the Planning (Northern Ireland) Order 1991 and is subject to the negative resolution procedure.

1.3 The Rule is due to come into operation on 30 August 2013.

2. Purpose

2.1 This Order expands the scope of permitted development by amending the Planning (General Development) Order (NI) 1993 (S.R. 1993 No. 278 as amended) (the "GDO") by amending by substitution Part 6 of Schedule 1 (Agricultural Buildings and Operations). The main changes provide:-

- revised permitted development rights to increase the size area limitation of PD rights for agricultural units from 300m^2 to 500m^2; and
- new permitted development rights for anaerobic digestion plant on an agricultural unit.

2.2 In addition minor technical amendments to Articles 2 and 3(8) of the GDO (see Articles 2(a) and (b) of this Statutory Rule) have been included. These amendments clarify that the GDO cannot grant planning permission for development falling within the scope of the EIA Regulations unless the Department has determined that it is not EIA development.

3. Background

3.1 In Northern Ireland permitted development rights are provided by the GDO to allow certain, often minor, non-contentious types of development to proceed without the need for a planning application as planning permission is granted by virtue of Article 3. Such rights help to reduce the number of planning applications and the regulatory burden on the planning system.

4. Consultation

4.1 Representations were made by the Ulster Farmers Union (UFU) suggesting an increase in the area limitation on the size of an agricultural building from the current 300m^2 permitted under Part 6 to 600m^2. This was temporarily the case during the period between October 2005 and December 2008 to assist farmers to erect slurry containers or buildings that would be used to house livestock and store slurry up to 600m^2 to comply with the Farm Nutrient Management Scheme under the EU Nitrates Directive. UFU argue that the initiative was very successful and meant fewer planning applications had to go through the planning process thus reducing expense and delay.

4.2 In November 2012, following a pre-consultation review, the Department issued a consultation paper with proposals to increase the size limitation from 300m^2 to 500m^2 for buildings on agricultural units and introduce new permitted development rights for anaerobic digestion plant on an agricultural unit. Given the significance, range and importance of many of the technical issues raised by respondents, particularly in relation to anaerobic digestion plant the Department undertook further research and engagement with DARD officials and the Northern Ireland Health and Safety Executive. Having considered the consultation responses, both for and against, taking account of the further research, the Department has decided to introduce new and revised permitted development rights for agricultural buildings and anaerobic digestion plant.

5. Equality Impact

5.1 Equality Impact Screenings carried out in respect of these proposals found no evidence of any differential impact on any of the section 75 categories.

6. Regulatory Impact

6.1 A Regulatory Impact Assessment carried out in respect of the changes to permitted development rights for agricultural buildings and operations is attached to this memorandum at Annex A.

7. Financial Implications

7.1 The changes to the GDO will give potential savings to applicants if their development is considered to fall within the classes described as permitted development in Schedule 1 to the GDO. Applicants will still have to make sure their development meets building regulations etc, but they will not incur the application fees for planning consent and the administrative costs incurred to submit an application. It is uncertain whether the extended PD rights will lead to an increase in applications for Certificates of Lawful Use and Development should developers wish to have written confirmation that their development is permitted. However, any resulting costs to business should be minimal.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the legislation complies with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 There are no EU transpositional implications.

10. Parity or Replicatory Measure

10.1 This is not a parity or replicatory measure.

11. Additional Information

11.1 None.

12. Contact

12.1 Please direct any queries to Joe Torney at the Department of the Environment

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REGULATORY IMPACT ASSESSMENT (FINAL)

Agricultural permitted development

1. Title of Proposal

The Planning (General Development) (Amendment No. 2) Order (Northern Ireland) 2013

2. Purpose and intended effect of measure

i) The objective:

The main objective of the Statutory Rule is to deliver proposals that improve the ability of the Planning (General Development) Order (Northern Ireland) 1993 ("GDO") to grant planning permission and thereby enable the planning system to regulate other development in a more productive and beneficial manner. The revisions to permitted development rights in the GDO therefore aim to:

- be easy to understand;
- be proportionate to the anticipated impacts of such development;
- be simple and economic to operate for both developers and planning administration; and
- manage impacts upon local amenity and environmental interests, including the built heritage.

The proposed changes to the GDO will only affect Northern Ireland.

ii) The background:

Key changes are:

- **To introduce new and revised permitted development rights** for agricultural buildings and anaerobic digestion plant.

iii) Risk Assessment and Rationale for Government Intervention:

In the "Reform of the Planning System" the then Minister for the Environment set out the aims and objectives of reform as improving the Northern Ireland economy, while promoting social inclusion, sustainable communities and personal health and well being

as well as promoting viable and vital towns and cities and helping to create shared spaces accessible to all and where people can live, work and socialise. We must also balance this with protecting the environment and heritage and contributing to sustainable development.

There are several key inefficiencies with the current system, which could be improved to the benefit of both the planning authority and those currently having to submit applications for planning consent. Around 86% of the planning application decisions for agricultural-type development examined as part of the Departments research are currently granted approval. In some instances some of the development that requires planning permission may have no significant impacts and therefore resource costs for both the planning authority and the applicant could have been avoided. This further adds to the number of applications that the planning authority has to deal with, which increases pressure on the authority and potentially diverts resources away from dealing with developments that have more significant impacts and greater benefit to the economy. This could have an effect on the time taken to determine applications.

Failure to legislate could mean that NI farming industry may be put at a competitive disadvantage in comparison with other UK jurisdictions.

3. Options Appraisal

Option 1 – Do Nothing

The current provisions set out in the GDO would continue to apply. This is not considered to be an appropriate option as it fails to achieve the Department's objectives of further reform of the permitted development regime.

Option 2 – Changes to the GDO

The GDO would be changed following the response received from the Ulster Farmers Union to the Department's review on non-householder permitted development rights.

- **Amend Part 6 of Schedule 1 to the Planning (General Development) Order 1993 to extend permitted development rights for agricultural buildings and introduce new rights for anaerobic digestion plant.**

4. Costs and Benefits

Unlikely to be any compliance costs. Permitted development is seen to be a deregulatory mechanism removing the need to complete and submit a planning application along with any associated fee. Thus it will be of direct benefit to the person intending to undertake the permitted development.

Option 1: Do Nothing

There are no additional economic benefits or costs. Planning administration would continue to allocate resources to processing applications that have low impacts. If such applications were to increase, this could impact upon the planning administration's ability to process efficiently applications for developments which are of greater strategic or economic importance.

Option 2: Changes to the GDO

Greater clarification and increased scope of the GDO will give potential savings to applicants if their development is considered to be PD. These applicants will still have to make sure their development meets building regulations etc, but they will not incur the application fees for planning consent and the administrative costs incurred to submit an application. It is uncertain whether extended permitted development rights will lead to an increase in applications for CLUDs should developers wish to have written confirmation that their development is permitted.

5. Sectors and Groups Affected

Limited to projects for the erection, extension or alteration of an agricultural building or anaerobic digestion plant on agricultural land comprised in an agricultural unit. Business sectors currently involved in such projects are likely to be agricultural industry developers.

Society is also affected by the impacts that changes to the GDO might have on those living and working in close proximity to the development as well as wider economic issues.

6. Enforcement and Sanctions

The Department's enforcement regime will continue to operate in the same way as it does with existing permitted development rights. Available sanctions include powers to compel developers to submit a planning application for works which require planning permission and powers to stop construction work and require the demolition or rebuilding of works which are unacceptable. All such sanctions are subject to the right of appeal by the affected developer.

7. Consideration of Impacts

Equality Impact Assessment
An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any additional impact on any of the Section 75 categories.

Health Impact
No impact on health has been identified.

Small Firms Impact Test
Impact on small businesses is expected to be minimal and if anything reduce costs associated with the completion and submission of planning applications, as these requirements will, in the main, no longer be required for buildings between 300m2 and 500m2 or anaerobic digestion plant subject to relevant limitations.

Human Rights Assessment
The Department considers that the proposed amendments are fully compliant with the Human Rights Act 1998.

Rural Impact Assessment
The proposals apply to the whole of Northern Ireland and will mainly be of benefit to the rural farming community. The consultation process sought views from the entire Northern Ireland population, regardless of whether they live in urban or rural areas.

8. Monitoring and Review

The introduction of a new planning regime for agricultural development will require to be monitored to determine whether the aims of undertaking the review and subsequent amendments are met. The overarching aim has been to expand the scope of development on agricultural units.

9. Consultation

Representations were made by the Ulster Farmers Union suggesting an increase in the area limitation on the size of an agricultural building from the current 300m^2 permitted under Part 6 to 600m^2. This was temporarily the case during the period between October 2005 and December 2008 to assist farmers to erect slurry containers or buildings that would be used to house livestock and store slurry up to 600m^2 to comply with the Farm Nutrient Management Scheme under the EU Nitrates Directive.

Following a pre-consultation review the Department issued a consultation paper in November 2012 with proposals to increase the size limitation from 300m^2 to 500m^2 for buildings on agricultural units and introduce new permitted development rights for anaerobic digestion plant on an agricultural unit. The consultation closed on 18th January 2013.

10. Summary and Recommendations

Option 2 is the recommended option as it will reduce the number of planning applications that need to be made for agricultural buildings and at the same time minimises the regulatory burden on the planning system. The proposed changes to the GDO will only affect Northern Ireland and have emerged from NI specific research into issues relating to the current regime.

Declaration:
I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment.



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Date: 7th August 2013

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