



Call for Evidence:

**Permitted Development
Rights for Mineral
Exploration**

Launch date: 14 March 2016

Respond by: 13 May 2016

Contents

Introduction.....	3
How to Respond.....	3
Background	4
Why undertake a review?	5
Purpose and scope	5
Next steps.....	6
Annex A - Permitted development rights for Minerals Exploration	7
Annex B - Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015.....	9

Introduction

The Department of the Environment will be undertaking a review of permitted development rights for mineral exploration as set out in Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015. This Call for Evidence will help inform the scope of this review.

How to Respond

You are invited to submit your views in response to this Call for Evidence **by 5.00pm on 13 May 2016**. Comments after this deadline will not be accepted.

All responses must be marked 'Mineral Exploration' and should be emailed to the Department at the following address:

ppdlegteam@doeni.gov.uk

Please note that your response may be made public by the Department. For example, information people provide in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality.

Background

1. In Northern Ireland, the Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO) sets out what type of development can be undertaken without requiring a planning application. These are referred to as permitted development rights and often relate to minor development that is non-contentious and has minimal impact to amenity and the environment. A summary of the permitted development rights set out in the GPDO in relation to Mineral Exploration is included in Annex A.
2. Mineral exploration for all purposes is granted permission by virtue of Class A of Part 16 to the Schedule to the GPDO (see Annex B). It consists of development on any land **for a period not exceeding four months** of the drilling of boreholes, the carrying out of seismic surveys, or the making of other excavations for the purpose of mineral exploration.
3. It also includes for the purpose of mineral exploration the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations. There is a requirement to pre-notify the relevant district council of the proposed exploration and the council may, should it wish, issue a direction restricting permitted development rights (known as an Article 7 direction) thus requiring the submission of an application for planning permission.
4. Minerals are an important natural resource and their exploitation makes an essential contribution to Northern Ireland's prosperity and well-being. The minerals extraction industry provides employment, often in rural areas, and produces a wide range of products for a variety of purposes in construction, agriculture and industry. The Department wishes to facilitate sustainable minerals development through balancing the need for specific minerals development proposals against the need to safeguard the environment.

5. It should not be presumed that successful future exploration will guarantee planning permission to exploit any proven reserves. Future extraction proposals must to be subject to the full rigours of the planning process and consideration of the environmental effects of specific proposals as well as all other material planning considerations.

Why undertake a review?

6. Permitted development rights for mineral exploration have remained constant for over 2 decades. The existing provisions were designed to deal with onshore oil and gas exploration involving the conventional techniques that were used at that time. The industry has progressed since then with modern exploration and excavation techniques. In addition, the recent emergence of unconventional hydrocarbon extraction techniques means this is a timely opportunity for the views of all stakeholders to be considered.
7. The Minister for the Environment, Mark H Durkan, is aware of the concerns raised by members of the public and colleagues in the Assembly on the potential environmental impacts of exploratory drilling and wishes to provide an opportunity for all interested parties to express their views on key matters that they consider pertinent. The Minister wishes to ensure an appropriate balance between the regulatory burden on the minerals and extractive industries and protecting the environment, amenity and public safety.

Purpose and scope

8. This Call for Evidence is part of the process of gathering the necessary information to inform the subsequent review of permitted development rights for mineral exploration. It is intended to provide further information on the operation and impact of the permitted development rights which currently exist and provide up-to-date evidence on the social, environmental and economic impacts of exploratory development for minerals going forward.

9. Whilst the Department welcomes comments on all aspects of permitted development rights for mineral exploration (and any other information and evidence that may assist in the forthcoming review) it is particularly keen to hear views on the following key question.

- **Do you believe that the existing provisions on permitted development rights for mineral exploration (as set out in Annex A and B) provide a suitable balance between supporting operational business activity and environmental protection?**

If not, please provide information to support your answer.

Next steps

10. Responses to this Call for Evidence should be made to the Department by 5:00 p.m. on Friday 13 May 2016.
11. The information gathered as a result of this Call for Evidence will be considered by the Department and will help inform the future approach to permitted development rights for mineral exploration.
12. Any necessary revisions to permitted development rights under the GPDO would follow the normal policy development process including public consultation on any draft proposals and the normal process of Assembly scrutiny.

DoE Planning Policy Division
Causeway Exchange
1-7 Bedford Street
Town Parks
Belfast
BT2 7EG

Annex A - Permitted development rights for Minerals Exploration

Background - Minerals Development and PDRs for minerals exploration in Northern Ireland

1. Class A of Part 16 of the Schedule to the GPDO provides permitted development for mineral exploration consisting of development on any land **for a period not exceeding four months** of the drilling of boreholes, the carrying out of seismic surveys, or the making of other excavations for the purpose of minerals exploration. It also includes for that purpose the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.
2. Apart from the four month limit there are also specific exclusions that prevent the exercise of the permitted development where:-
 - a. It is within an area of special scientific interest or site of archaeological interest
 - b. Any explosive charge of more than 1 kilogram is used, or
 - c. Any structure assembled or provided would exceed 3 metres in height where such a structure would be within 3 kilometres of an airport.
3. Development permitted by this Class is also subject to a number of conditions to protect trees, to deal with excavated material, and to ensure that the land is adequately restored (including sealing boreholes and having excavations filled).
4. **Importantly the developer must also notify the district council in writing** giving details of the location of the proposed development, target minerals, details of plant and operations and anticipated timescales. This allows the

district council, should it wish, to make a direction within 21 days of receipt of the notification that the permitted development right should not apply and that the development should not be carried out unless permission for it is granted on a planning application.

5. Such a direction can be issued for a number of reasons including:-
 - a. That the development is to be carried out on land which is within or affects a sensitive area such as a conservation area, a National Park, a nature reserve , an AONB, an ASSI or a site of archaeological interest;
 - b. That the development either taken by itself or in conjunction with other development would cause serious detriment to the amenity of an area in which it is to be carried out or would adversely affect the setting of a listed building;
 - c. That the development would constitute a serious nuisance to the inhabitants of a nearby residential building, hospital or school; or
 - d. That the development would endanger aircraft using a nearby airport.

6. Permitted development rights are automatically excluded if the proposed works constitute EIA development and all permitted development rights are subject to the relevant provisions of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995.

Annex B - Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015

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) 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;
- (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 3 metres in height where such structure would be within 3 kilometres of an airport.

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(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) 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 shall, so far as is practicable, be restored to its condition before the development took place.

Interpretation of Part 16 A.3

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;

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