



Subject:	Responses to Department of Environment's 'Call for Evidence' for Permitted Development Rights for Mineral Exploration
Date:	19 th April 2016
Reporting Officer:	Keith Sutherland (ext 3576)
Contact Officer:	Dermot O'Kane (ext 2293)

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<i>Please see Note 1 in Part 3</i>		
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<i>If 'No' please see Note 2 in Part 3</i>		

1.0	Purpose of Report or Summary of main Issues
1.1	This report seeks to provide the background on the Call for Evidence on Permitted Development Rights for Mineral Exploration and seek members' approval for a Council response.
1.2	The Department of the Environment (DOE) has issued a 'Call for Evidence' to inform the future approach to Permitted Development Rights for Mineral Exploration as set out in Part 16 of the schedule to the Planning (General Development Order) Northern Ireland (2015).
1.3	The 'Call for Evidence' is to support the forthcoming review of the existing provisions on permitted development rights for mineral exploration and the balance between operational activity and environmental protection.
1.4	The closing date for submission is the 13 th May 2016. The proposed draft response is attached in Appendix A for consideration.

2.0	Recommendations
2.1	Members are asked to: <ul style="list-style-type: none">Consider the draft document, 'Draft Council response to DoE's Call for Evidence: Permitted Development Rights of Minerals Exploration' and if appropriate approve its submission to the DoE as the Council's response to the Call for Evidence. (See Appendix A)
3.0	Main report

<p>3.1</p> <p>3.2</p> <p>3.3</p> <p>3.4</p> <p>3.5</p> <p>3.6</p> <p>3.7</p> <p>3.8</p>	<p><u>Key Issues</u></p> <p>The aim of the call for evidence is part of a process of gathering the necessary information to inform the subsequent review of permitted development rights for mineral exploration. It is in response to concerns raised from an elected member and seeks to gather information on the operation and impact of the permitted development rights which currently exist alongside up-to- date evidence on the social, environmental and economic impacts of exploratory development for minerals going forward.</p> <p>Members may recall that there was a Notice of Motion on permitted development to conduct exploratory petroleum drilling at Woodburn Reservoir in Carrickfergus at the September Council meeting. Council agreed to write to the Minister of Enterprise, Trade and Investment, the Minister of the Environment and Mid and East Antrim Council to review the decision to grant permitted development for exploratory drilling in Woodburn Forest and for the Minister of Environment to amend the law to ensure petroleum exploration required planning consent. (See Appendix B)</p> <p>The response from DETI confirmed that whilst significant environmental information was provided by InfraStrata Plc as part of the license process a formal SEA was not deemed necessary at the time of issuing PL1/10 to the company. (See Appendix B).</p> <p>The Minister of Environment subsequently launched the ‘Call for Evidence’ on the review of Permitted Development Rights for Mineral Exploration to provide the opportunity to express views on the operation of the planning processes. (See Appendix C) The evidence will inform the Department’s understanding of the operation and impact of the existing permitted development rights set out in Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 and provide the opportunity for the Council to provide views on whether the existing development rights for onshore oil and gas exploration needs to be modified or changed.</p> <p>The recommended response is set out in Appendix A. In summary, the key recommendations are that, if Permitted Development is to be retained, there needs to be clear guidance in relation to the notification process and information requirements to enable planning authorities to effectively consider proposals.</p> <p><u>Finance and Resource Implications</u></p> <p>There is no resource implications associated with this report.</p> <p><u>Asset and Other Implications</u></p> <p><u>Equality or Good Relations Implications</u></p> <p>There are no relevant equality and good relations implications attached to this report.</p>
<p>4.0</p>	<p>Appendices – Documents Attached</p>
<p>Appendix A: Response to Call for Evidence: Permitted Development Right for Mineral Exploration</p>	

Appendix A: Draft Council response to the “Call for Evidence: Permitted Development Rights for Minerals Exploration”



Belfast City Council

MINERAL EXPLORATION

Draft response to Call for Evidence: Permitted Development Rights for Mineral Exploration

1 Background

In recent years there has been an increasing interest in mineral resources in NI. There is renewed interest in mineral prospecting, and new prospecting permits for precious and base metals and therefore there is a need to for a balanced approach to the exploration of mineral exploration.

The council recognises the need for appropriate balance in the protection of the environment, amenity and public safety and also the need to reduce the regulatory burden on the minerals and extractive industries.

Belfast City Council welcomes the review and the opportunity to comment and give evidence. The Council recognises that whilst minerals development can deliver significant economic benefits there is also a number of potential challenges arising from this type of development which should be considered through the planning system.

It should be recognised that the role of Planning is key in facilitating a sustainable approach to minerals development.

The Council fully supports the objective and need to undertake a review of permitted development rights for mineral exploration, and the need to bring forward detailed operational guidance policies within which will provide better clarity and certainty for all users of the reformed planning system.

2 Legislation Governing Mineral Permitted Development

The current Planning (General Permitted Development) Order Northern Ireland) 2015 (GPDO) sets out what type of development can be undertaken without requiring a planning application. Permitted development in relation to ‘mineral exploration’ and ‘development ancillary to mining operations’ are both dealt with in parts 16 and Part 17 of the General Permitted Development Order respectively.

The Council considers that the objective of a planning authority should be to ensure that the need for specific minerals development proposals to be assessed against the need to safeguard the local environments. The considerations should seek to minimise the impact on local communities, landscape quality, built and natural heritage, and the water environment whilst ensuring restoration, after exploration has ceased.

The Council recognises that as the local Planning Authority it has the opportunity to remove permitted development rights under Regulation 7 of the Permitted Development Order 2015. However, whilst Regulation 7 empowers the Council to issue a direction to remove the permitted development rights and require formal consideration of the proposal through an application, there is limited guidance on this process or the application of the provisions within the regulations. This concern regarding the absence of guidance is compounded by the fact that the power can only be exercised within 21 days receipt of the notification.

3 Requirements of Part 16 Mineral Exploration

Further explanation is set out in the following paragraphs on Mineral exploration for this purpose is granted permission by virtue of Class A of Part 16 to the schedule to the GPDO. The regulation sets out the following limited guidance:

The developer wishing to carry out mineral exploration must notify the planning authority of proposed works and the legislation specifies the limitations in what can be considered to be permitted:

- *The development must be for the purpose of mineral exploration*
- *Development shall not exceed 4 months duration*
- *Development consisting of (a) Drilling a borehole, (b) Carrying out a seismic survey, (c) Making other excavations*

In addition proposals cannot be considered as permitted where:

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.

In order to carry out these assessments effectively the Planning Authority would require significant detail to make a determination which in the context of the limited notice period could be very challenging.

4 Other Consents

The Council recognises that other consents may be required and these are undertaken separately by Statutory Bodies under their own legislation such as Regulations on the following:

- *Discharge consents under the terms of The Water (NI) Order 1999, administered by NIEA Water Management Unit;*
- *Pollution Control Permits (PPC), administered by NIEA Industrial Pollution and Radiochemical Inspectorate (IPRI);*
- *Quarry Regulations, administered by the Health and Safety Executive NI (HSENI);*
- *Minerals licensing administered by DETINI*

Minerals and petroleum prospecting in Northern Ireland is permitted in accordance with specific legislation, policies and statutory rules and is the responsibility of the Department of Enterprise, Trade and Investments. Any person who wants to explore for, drill for or extract oil or gas in Northern Ireland must hold a Petroleum Licence granted by the Department of Enterprise, Trade and Investment (DETI) under the Petroleum (Production) Act (Northern Ireland) 1964.

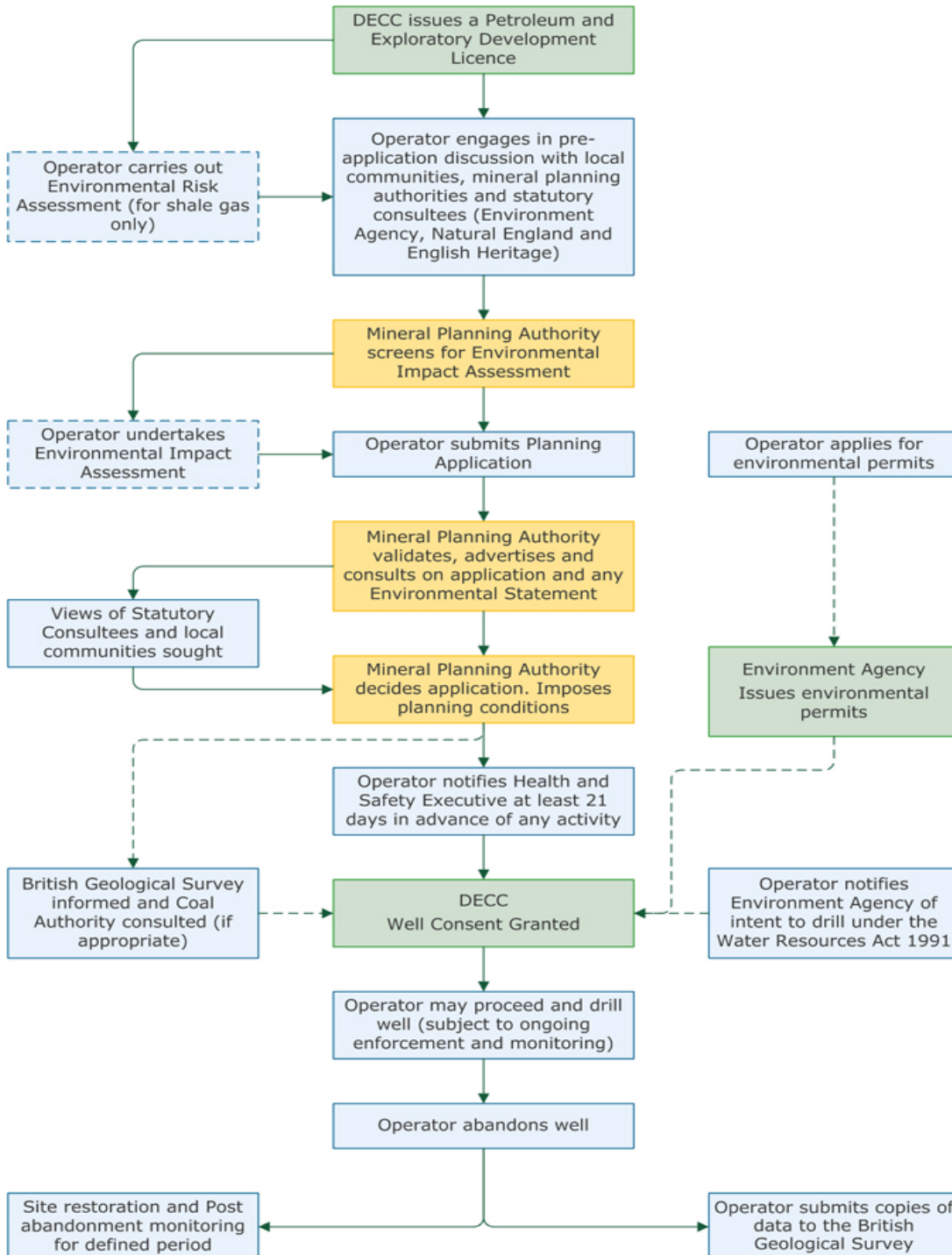
The application and licensing process is underpinned by regulations which, among other things, set out the arrangements for making and determining applications, permissible terms and conditions for granting a Petroleum Licence and the model clauses which may be incorporated in a Petroleum Licence.

The Council considers that, if permitted development is retained, it should be a prerequisite that other consents are in place prior to the Planning Authority having to make a determination as to whether or not works are permitted development.

5 Recommendations

- a. If permitted development rights are retained consideration should be given to a longer notice period than 21 days to allow Councils to assess them properly.
- b. As the onus is on the Planning Authority to make this determination it needs to be clear that there must be sufficient information available to make the determination. The assessment could be complex and there is limited guidance on how this notification is managed and operated. Guidance could help ensure the Planning Authority can make a determination as to whether or not it falls within the scope of the legislation.
- c. Guidance should outline how other statutory bodies are involved in the process of mineral exploration and address the relationship between the licensing regimes and planning controls.
- d. Council would suggest that guidance to outlining the process including schematics such as a flowchart is developed for guidance (similar to that used by Planning Authorities in England and Wales see below) to provide some clarity for all stakeholders in the processes.

Example: the flowchart below illustrates the process for used by Planning Authorities in England and Wales.



Example from Planning Portal: <http://planningguidance.communities.gov.uk/blog/guidance/minerals/planning-for-hydrocarbon-extraction/annex-b-outline-of-process-for-drilling-an-exploratory-well/>