

## **Planning and Environmental Aspects**

### **Planning Legislation in Agriculture**

England and Wales Planning and Environmental legislation is broadly similar to the equivalent Irish legislation, but with some significant differences. Irish planning legislation is modelled on English planning legislation. Both Ireland and England's environmental legislation is largely derived from European Union Directives and requirements. See our detailed guide to the England and Wales Planning system in our Development Guide.

As in Ireland, Local Authorities in England and Wales prepare and maintain development plans. Development plans set out the land's permitted use and permitted development. Most development control is undertaken by the district planning authority.

The types of works and operations which require planning permission are broadly the same as in Ireland. The use of land for agriculture or forestry purposes does not usually require planning permission. However, this blanket exemption does not apply to agricultural buildings. Certain work may require consent from environmental agencies.

The General Permitted Development Order (GPDO) defines works and uses which do not usually require a planning permission, provided certain conditions are complied with. Part 7 of the GPDO sets out certain classes of Agricultural buildings and operations which are exempt from planning permission control.

The carrying out on agricultural land comprising an agricultural unit of 5 hectares or more, of works of erection, extension, alteration or certain other excavation or engineering works as are reasonably necessary for the purposes of agriculture within the unit, are exempt from planning permission requirement. In the case of holdings less than 5 hectares, a similar but more restrictive exemption applies.

The works must be reasonably necessary for agriculture within that unit. There are certain restrictions on the general rights. It may be necessary to apply to the local authority for a determination as to whether prior approval is needed. In particular prior notification is required where it is proposed to erect, extend or alter an agricultural building. There are detailed rules dealing with the conditions under which agricultural buildings can be erected.

As in Ireland, there is a system of national Building Regulations in England that are enforced by the Local Authorities. Significant building works requires prior approval of plans by the Local Authority. Agricultural buildings will be exempt from Building Regulation requirement, provided there is no residential or sleeping accommodation.

The planning process (where planning permission is required) is similar to the procedures in Ireland. Plans, drawings etc are lodged with the Planning Authority. Permissions are generally adjudicated upon by the planning committee of the elected council members, guided by the professional planners employed by the Council. The right of appeal is more limited than in Ireland. Only the applicants for planning permission can appeal.

The use of land for the purposes of agricultural work or forestry including deforestation or the use for any of those purposes of any building occupied, together with the land does not require planning permission. Agricultural is deemed to include horticulture, dairy farming, livestock breeding and keeping, fur and wool farming, market gardening and the use of woodlands ancillary to farming.

Considerable development rights are granted by the General Permitted Development Order. They may be subject to conditions and limitations. It may be necessary to apply to the planning authority for determination whether approval is needed as to the position, design and external appearance. Following notification, the proposal may not proceed until written statement is received from the planning authority that prior approval is not required or approval is given. Notice must be erected first.

## **Environmental Regulation**

In addition to planning control, agricultural works and operations may be subject to controls under environmental legislation. Certain categories of works may require an Environmental Impact Assessment, even if they are permitted or exempt under the generally PDO legislation. The provision of uncultivated land or semi-natural land for agricultural purposes and projects which physically restructure a rural land holding, and certain tree planting require application to and approval by Natural England.

Sites of special scientific interest (SSSI) are designated by Natural England where land is of special interest by reason of any flora, fauna, geological or physiographical features. If an area is so designated, operations which impact upon the protected area are restricted. Proposed works are notified to Natural England where they potentially impact SSIA area. Consent may be forthcoming although possibly subject to certain conditions and restrictions. Natural England will screen the application and if it is unlikely to have a significant effect, it will be allowed to proceed. Further procedures may arise.

Further restrictions can arise under management agreements in relation to Environmentally Sensitive Areas entered with the land owners. This may impose restrictive and positive management obligations. The management agreements are effectively contracts in which owner or occupiers agree in the interest of nature conservation to manage land in return for payment from English Nature. Grant Aid is paid in compensation.

The Single Farm Payment cross compliance requirements in relation to good agricultural practice involves environmental obligations. Higher levels of environmental obligations can be voluntarily undertaken under the Environmental Stewardship grant aid schemes.

European Union Law has provided for Habitat conservation under the Wild Birds and Natural Habitats directive. The principal types of protection are Special Protection Areas which are provided for under the Wild Birds Directive. Special areas of

conservation arise under the Habitat directives. 1,454,500 hectares have been designated in the United Kingdom. Significant restrictions on development apply to special areas of conservation and special protection areas.

There are provisions for Tree Preservation Orders in the planning code, similar to those in Ireland. Tree preservation orders are to be made for individual trees, groups of trees and woodlands. Any major works to the trees would require planning consent. In a conservation order, all trees have the same protection as if they were preserved. This provides special restrictions and protection.

Felling licences are required in relation to forestation and deforestation similar to those applying under the Forestry Act in Ireland. Licences are required from the Forestry Commission for the felling of certain trees in certain areas and on certain criteria. The controls are based on commercial rather than protection factors.

The Hedgerow Regulation applies to a wide class of hedgerows, particularly hedge rows 20 metres or longer or meet another hedgerow at each end. The owner must notify the local authority before removing any hedgerow or stretch of hedgerow. The local planning authority must reply within 14 days notice failing which consent is deemed to have been given.

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*This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.*

*This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.*

*While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.*