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Brussels “We Are Nature” circular: no moratorium, but new requirements for permit applications on sites larger than 0.5 hectares



Background

By a judgment rendered on 29 October 2025, the French-speaking Court of First Instance of Brussels ordered the Brussels-Capital Region to suspend all urbanisation and all impermeabilisation on undeveloped sites and land of more than 0.5 hectares. This judgment applies immediately and will remain in force until the adoption of the revised Regional Land Use Plan (PRAS/GBP), and at the latest until 31 December 2026.

The Brussels Government decided on 19 March 2026 to appeal the judgment, but the decision had already generated significant legal uncertainty for both permitting authorities and applicants, owing to a lack of clarity as to its exact scope and the modalities for processing pending files. The Government of the Brussels-Capital Region adopted a circular on 7 April 2026 (published in the Belgian State Gazette on 10 April 2026) addressed to Urban.Brussels and Brussels Environment, the purpose of which is to provide clarifications and assist the competent authorities in determining which applications are affected and how to process permit applications in a manner consistent with the spirit of the judgment.

The **key message** is, in substance, that **authorities are instructed to continue processing all permit applications and no moratorium will be applied**.

Scope of Application

The circular applies exclusively to land and sites with a surface area exceeding 0.5 hectares. For such sites, it covers applications for allotment permits, building permits, environmental permits (where involving classified installations entailing urbanisation or impermeabilisation), mixed projects, and applications for (building and environmental) certificates; irrespective of whether the zone is designated as buildable under a land use plan. It also applies to applications under appeal before the Environmental College or the Government.

Applications relating to land or sites of 0.5 hectares or less are not affected by the circular or by any of the requirements it introduces.

The circular applies both to applications currently under instruction and to those yet to be filed, including where a permit has been withdrawn or annulled by the Council of State. It covers all applications for which no final decision has been adopted as at the date of its entry into force, but does not affect rights already vested under validly issued and non-lapsed permits.

The circular enters into force on the date of its publication in the Belgian State Gazette (i.e., 10 April 2026) and will cease to apply upon the reading in the Council of Ministers of the draft of Regional Land Use Plan, scheduled for early 2027.

Strategic Development Plan (PAD/RPA) Exception

The Court appears to have based its decision partly on the obsolescence of Brussels’ urban planning instruments, including the Brussels Code of Urban Planning (*COBAT/BWRO*), the Regional Land Use Plan, Municipal Land Use Plans (*PPAS/BBP*), the Regional Urban Planning Regulation (*RRU/GSV*) and municipal urban planning regulations. In addition, the judgment makes no reference to the Strategic Development Plan (*PAD/RPA*), the most recently adopted regulatory planning tool in the Brussels-Capital Region, which sits higher in the normative hierarchy and is founded on thorough environmental impact assessments following rigorous public consultation.

Accordingly, the circular provides for an exemption regime for permit applications falling within the perimeter of a Strategic Development Plan adopted by the Brussels-Capital Government. Such projects are not subject to any of the additional requirements described below.

New Requirements: The Ad Hoc Form and Climate Note

For applications on unbuildable or partially unbuildable land or sites of at least 0.5 hectares, where the project has an impact on impermeabilisation, vegetalised surfaces, or tree cover, and where it does not fall within the perimeter of a Strategic Development Plan, issuing authorities are instructed to process files in accordance with the applicable regulatory framework and to inform applicants of the obligation to supplement their application with additional documents.

The **ad hoc form** must describe, in both the current and projected situation: the impermeabilisation rate of the entire site or land, the vegetalised surface, the tree cover surface, the number of trees felled and replanted with the species concerned, and the mature height of trees to be replanted. For projects listed in Annexes A and B of the Brussels Code of Urban Planning and projects requiring both a building and an environmental permit, a CBS+ (Biotope Surface Coefficient) calculation must also be completed and included in the same form.

The **climate note** is a new documentary requirement. It must detail the measures favourable to the quality of the site or land provided for by the project, as well as the possibilities for compensation measures – meaning all projected measures designed to offset as best as possible the effects of the project on habitats and species habitats, vegetalised surfaces, tree cover (existing, maintained, felled, and replanted trees), and/or impermeabilisation. The note will also enable the issuing authority to assess the positive regional climate impact of the project. More broadly, the climate note must present the measures envisaged to reduce and/or compensate for the project's impact on vegetation, tree cover, natural habitats, and impermeabilisation, as well as any measures contributing to the Region's climate ambitions, such as public collective mobility, renewable energy production, and waste management.

Assessment Criteria

In processing the application, the competent authority must evaluate the buildable potential of the site in light of the additional information provided. A balancing of interests must be carried out by reference to the objectives set out in Articles 2 and 3 of the Brussels Code of Urban Planning and Article 2 of the Ordinance on Environmental Permits, on a case-by-case basis taking into account the particular circumstances of each project.

Every project must contribute to maintaining and/or improving biodiversity and carbon sequestration. The existing assessment criteria are supplemented by the following elements, which may be combined to evaluate the qualities of the project:

- vegetalised rainwater management systems (in situ and without discharge, save in exceptional cases);
- the choice and size of species to be (re)planted;
- the continuity of green spaces;
- the provision of biotopes favourable to wildlife;
- any characteristic of the project that tends to materially improve the environmental qualities of the land, site, or Region; and
- the public interest or general utility purpose of the project, which calls for a specific assessment recognising the environmental and societal benefits inherent to its nature.

The permit decision must attest to the fact that environmental and climate considerations have been duly taken into account, whilst maintaining a balance with the Region's other objectives, including the economy and job creation, the cost of the project, social considerations, housing, and mobility.

This content is intended to highlight issues and is not intended to be comprehensive, nor to constitute legal advice. Should you have any questions on the issues reported here, please do not hesitate to get in touch with our Belgian Real Estate team.

Authors



Atdhe Krasniqi

Associate, Brussels
Tel: +32 2 501 92 03
atdhe.krasniqi@linklaters.com



Noor Spapen

Junior Associate, Brussels
Tel:+32 2 501 91 75
noor.spapen@linklaters.com

linklaters.com

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