



Reform of the Planning System in Northern Ireland: Your Chance to Influence Change

Consultation Paper

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An Agency within the Department of the

Environment

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INVESTORS IN PEOPLE

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Foreword

by Edwin Poots, Minister of the Environment

I am delighted to introduce this consultation paper on planning reform. I am acutely aware of the need to ensure that we have a first class planning system which serves the needs of all the people of Northern Ireland.

Planning impacts on everyone's life and helps to provide places to live and work, to support regeneration, and to protect the best of our natural and historic environment. I am committed to having a modern, efficient and effective planning system which is able to deliver these critically important objectives for everyone in Northern Ireland.

The reforms proposed in this paper represent the most far-reaching changes to our planning system in over 30 years. I believe these proposals will help to transform our mainly regulatory planning system into a more responsive one which helps to enable appropriate development and manage it in the public interest to achieve sustainable economic growth. The reform proposals impact on every aspect of the planning system: how development plans are drawn up, how development proposals and applications are managed, how policy is produced and the way in which these functions are delivered.

These proposals are set within the context of the Review of Public Administration which will see responsibility for the majority of planning functions move from the Planning Service to the new 11 councils. Local representatives will become the decision-takers on the majority of planning applications and will set the context for these decisions through their new local development plan functions. Central government will also have a new role to play in the formation of a two-tier system of planning. I welcome this new era of enhanced local democracy and accountability.

Within this new democratic framework the planning system must work for the benefit of the whole community and become a strong and effective tool for the 11 councils and their elected representatives to deliver better quality planning functions in a fair, transparent and timely way. This requires new and revised processes and procedures, as well as fundamental changes in attitude and culture. Successful reform of the planning system will only be achieved if all those involved in planning (individually and collectively) are ready to change to ensure that the new system achieves better performance and outcomes. Whether as planners, applicants or agents, consultees, communities, representative organisations, public bodies, government or members of the general public we will all need to commit ourselves to engaging, as constructively as possible, within a reformed planning system.

The key aim of the Executive is to grow the economy and we need a planning system which helps us to

do this. The recent global economic difficulties and the very challenging outlook facing Northern Ireland reinforce the need to reform the planning system to become more effective and responsive to the needs of all users. Economic growth requires development, including major infrastructure provision, but this development must be sustainable and take into account all relevant considerations in the wider public interest. The competing interests which often emerge in the consideration of development proposals require our planning system to balance very difficult social, economic and environmental issues. I realise that the planning system cannot be expected to satisfy all interests all of the time. A reformed planning system should, however, enable more timely decision-making in ways which are transparent and demonstrably fair and deliver better quality development to meet all our needs for homes, hospitals, schools, places to work, shop, visit and spend our leisure time.

The changes proposed in this paper have a medium to long term focus and are likely to require legislation to give effect to them. In the interim, the Planning Service will, of course, continue to make progress with various non-legislative changes, such as streamlined council consultation, so that we can make a positive impact and improve processing times in the short term.

The Planning Service alone cannot change the planning system: we must all play our part. It is important that all stakeholders have their say and I would encourage everyone to read this document and comment on the proposals. All responses will be considered carefully before final decisions are taken. I believe that the publication of this consultation paper lays the foundation for transforming the current planning system and is a significant step on the journey to securing greater effectiveness and responsiveness for all users of the system.

A handwritten signature in black ink, appearing to read 'Edwin Poots', written in a cursive style.

Edwin Poots
Minister of the Environment

Executive Summary

1. In November 2007, the then Minister of the Environment, Arlene Foster, announced that she intended to take forward a programme of planning reform, with the key aim of developing proposals that would enable the planning system to play its part in delivering the Executive's Programme for Government (PfG)¹ priorities and, in particular, by contributing to growing a dynamic, innovative and sustainable economy, while promoting inclusion and equality of opportunity. Professor Greg Lloyd, an expert on planning, was appointed to provide the Minister with an independent opinion on the direction that planning reform would need to take to best achieve its aim and to work with officials to develop proposals for the key measures necessary to deliver an improved planning system. A copy of Professor Lloyd's report is attached at annex 1.
2. This consultation paper sets out the measures the Department of the Environment (the Department) proposes to take to reform the planning system in Northern Ireland and to make the changes required to implement the decisions taken under the Review of Public Administration (RPA), which will see the majority of planning functions returning to local government. Together, these proposals represent the most fundamental change to the planning system in Northern Ireland in over 30 years.
3. The paper also sets out certain related issues on which the Department is seeking views, including criminalisation of development without planning permission, developer contributions and enhancing the capacity of the planning system.

Stakeholder Engagement

4. In order to fully inform the proposals the Department has been involved in a number of different engagement activities, including a major conference in November 2007, attended by approximately 200 delegates and addressed by the Environment Minister. A questionnaire developed for the conference was posted on the Planning Service website for 10 weeks, with over 240 responses submitted and considered. Officials have also been engaged in research and have been in liaison with their counterparts in planning throughout the UK and Ireland. In addition, a series of meetings, involving Professor Lloyd, have been held with internal and external stakeholders, including other government departments, the Planning Appeals Commission, representative bodies such as Community Places, Northern Ireland Environmental Link, the

¹ The Programme for Government sets out the Executive's strategic priorities and key plans for 2008-11 and can be found at <http://www.pfgbudgetni.gov.uk/>

Construction Employers Federation, the Institute of Directors, the Confederation of British Industry, the Northern Ireland Local Government Association and others.

5. The planning system is fundamentally about ensuring the effective and efficient use of land in the public interest, contributing to achieving sustainable development in cities, towns and rural areas. Land use and development involves a complex interaction and analysis of economic, environmental and socio-economic issues and, with the return of devolved government in Northern Ireland, the Executive has made it clear that the top priority for the next three years is sustainable economic growth.
6. Reform is therefore needed to ensure that we have a modern, efficient and effective planning system, and is critical to supporting the Executive in delivering on its key priorities. The planning system needs to provide confidence to investors, developers and the public alike. It needs to be more responsive to the many and varied challenges we are facing today, including promotion of economic growth, enabling sustainable development, securing environmental protection, addressing climate change and demands for more social and affordable housing and, of course, ensuring effective use of resources and improved service provision.

Aims and Objectives for Reform

7. The reform programme aims to bring about improvements in the planning system to ensure that it:
 - supports the future economic and social development needs of Northern Ireland and manages development in a sustainable way, particularly with regard to large, complex or strategic developments;
 - is delivered at the right level with the appropriate managed processes for regionally significant, major, local and minor applications;
 - has streamlined processes that are effective, efficient and improve the predictability and quality of service delivery; and
 - allows full and open consultation and actively engages communities.
8. The reforms are set in the context of the overall objective of 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 city centres and helping to create shared spaces that are 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.

Scope of the Reforms

9. This reform of the planning system is intended to be comprehensive: it encompasses the development plan process, development control, enforcement and planning policy, together with other support-type functions. It also covers a significant time period, from the short-term through to 2011 and beyond. It is focused on the planning system, not just the Planning Service, and on the roles and responsibilities of all of the participants, including planners, developers, agents, consultees, representative bodies, elected representatives, communities and individuals. In addition, the major structural reform of the planning system required to deliver the RPA will see decision-making on planning applications and local development planning become the responsibility of the new district councils. This will make planning much more locally accountable, giving local politicians the opportunity to shape the areas within which they are elected. It will also improve the decision-making processes by bringing an enhanced understanding of the needs and aspirations of local communities.
10. In advance of these proposals, the Planning Service has been taking forward a series of projects, pilots and trials aimed at having an immediate impact on speeding up the planning process (e.g. new pre-application discussion arrangements with applicants, and a joint pilot scheme with Derry City Council to streamline non-contentious applications² which, by the end of March 2009, had been rolled-out to all district councils). In the medium to longer term, the reform proposals that will be brought forward will require more significant changes, in many cases underpinned by new or amended legislation.
11. Chapter 1 provides background to the reform programme: the purpose of the planning system; why we need to reform it; the impact the RPA will have; and the Department's vision for a reformed planning system. The remainder of the consultation paper covers the areas set out below.

Planning Policy

12. The Department is considering the need for a reform of its arrangements for planning policy, particularly in relation to the future role and status of planning policy statements (PPSs) in light of the proposed transfer of key planning functions to the new district councils in 2011. The Department is proposing that PPSs should move from providing operational guidance and advice to providing strategic direction and regional policy advice, which would then be interpreted

² Non-contentious applications are defined as minor applications with no objections.

locally in development plans, and that the content and process associated with PPS production should reflect the desire to produce shorter, more focused documents, in a shorter timescale.

Development Plan

13. Fundamental to reform is the provision of an effective, up-to-date development plan system. The Department proposes to introduce a new local development plan system which will operate within the two-tier planning system envisaged under the RPA, whereby planning functions will be administered by both district councils and the Department. The proposals are intended to:

- speed up the plan preparation process;
- ensure more effective participation from the community and other key stakeholders early in plan preparation; and
- ensure a more flexible approach that is responsive to change and capable of faster review.

The new local development plan system will provide more clarity and predictability for developers, the public and other stakeholders. It will also assist the new 11 district councils to target action to tackle social need and promote social inclusion.

Development Management

14. Enhancing the ability of the system to deal speedily with key planning applications that have real economic and social benefit is central to delivering the vision of a planning system that is fit for purpose and which will underpin a modern and prosperous Northern Ireland. The Department proposes to adopt a concept of development management for handling planning applications, with a greater emphasis on facilitating and shaping development and away from mainly controlling it.

15. As part of this new development management approach, the Department is proposing the creation of a 3-tier hierarchy of development (consisting of regionally significant, major and local) so that greater resources can be directed at those applications with economic and social significance, through more proportionate decision-making mechanisms, tailored according to the scale and complexity of the proposed development. In conjunction with this, the Department proposes to introduce new processing arrangements for types of applications within the 3-tier hierarchy. These will improve the predictability of timescales and ensure effective engagement with the community and other stakeholders. Proposals are also included in relation to permitted development, the role of consultees, the partial demolition of unlisted buildings in conservation areas/areas of townscape or village character, and miscellaneous changes to planning permissions.

Permitted Development (including householder and small scale renewable energy generation)

16. Permitted development rights currently allow certain, often minor, non-contentious types of development to proceed without the need for a planning application as planning permission is deemed to be granted. The introduction of development management will include a rationalisation of how planning permission is given for such minor developments. The Department proposes to achieve this by simplifying and streamlining processes for applications for minor development, and by extending the range of minor developments for which planning permission is given without a planning application: for example, by extending permitted development rights within the curtilage of a dwelling house, and providing specific permitted development rights for small scale renewable energy generation.

Role of Consultees

17. The Department is re-examining the arrangements by which planning authorities (whether district councils or the Department) will consult other bodies on applications for planning permission, approval and consent and the process by which consultee bodies will be required to respond to such consultations.

Enhanced Development Management in Conservation Areas, Areas of Townscape or Village Character

18. Protecting those areas that have been identified as architecturally or historically important is a key role of the planning system. As part of this role, a number of conservation areas and areas of townscape or village character have been designated, or are proposed, across Northern Ireland. To ensure these areas are fully protected the Department is proposing to strengthen control over the partial demolition of unlisted buildings in conservation areas, areas of townscape or village character and to place greater emphasis on the enhancement of conservation areas.

Miscellaneous Changes to Planning Permissions

19. The Department is seeking views in relation to changing the duration of planning permission and some consents; enabling non-material changes to planning permissions (i.e. minor changes that do not significantly change a scheme that was originally granted planning permission) to be made; and allowing the planning authority to correct errors in planning decision documents without the consent of the applicant/landowner.

Appeals and Third Party Appeals

20. The Department is examining measures for improving the appeal system: for example, reducing the time limit for lodging an appeal from six months to two, giving the Planning Appeals

Commission the legislative powers to determine the most appropriate appeal method, and establishing local member review bodies (comprised of councillors) to hear certain appeals. The Department is also inviting views on the issue of third party planning appeals.

Enforcement and Criminalisation

21. The Department is reviewing enforcement provisions to ensure they are sufficiently robust and considering whether any new proposals, similar to those recently introduced in Scotland, should be developed for Northern Ireland. The arguments for and against introducing a criminal offence for commencing development without planning permission are also considered.

Developer Contributions

22. The Department is seeking views on the contribution that the development industry might make to the provision of infrastructure (such as roads, water and sewerage) necessary for Northern Ireland's economic and social improvement.

Enabling Reform

23. In order to properly reform the planning system there are a number of related areas which will need to be addressed: for example, culture change, capacity, funding, engaging communities, audit and inspection arrangements.

Culture

24. The reform proposals represent the most substantial changes to the planning system in over 30 years. For the full impact of these changes to be realised, and a new planning system created, it is clear that a change in culture for all those involved in the system is required. The development of a shared understanding amongst stakeholders on the role and nature of the planning system is extremely important, both in terms of what planning is expected to deliver and what it is not. A key element of such an approach is an enhanced appreciation and acceptance of both the rights and responsibilities of all stakeholders.

Capacity

25. Another key area will be building capacity, both within the existing Planning Service and working with stakeholder bodies, councils, consultees, developers, agents and the public to deliver reform, including the new roles and responsibilities emerging from RPA implementation. It is particularly important that all planning staff continue to develop and enhance the necessary skills and competences required to take forward planning reform.

Funding

26. The implementation of the RPA, in conjunction with the reform programme, will inevitably have implications for the funding of the planning system, and for the fee structure. We need to assess how these proposed reforms will impact on funding and what revisions may be required as a result. Consultants will be engaged to research and provide recommendations in relation to the future funding of the planning system in light of both the reform initiatives and the decisions made as a result of the RPA.

Engaging Communities

27. Ensuring that openness, transparency and the opportunity for effective engagement continues in the future planning system is at the core of the reforms being proposed and is critical to ensuring integrity and confidence in the planning system.

Audit/Inspection

28. The role of audit, inspection, performance management and monitoring of the planning system will be critical in ensuring that planning functions are carried out, and are seen to be carried out, in a clear, fair and consistent manner and that best practice is applied across the new district councils. The Department is proposing that central government should have a statutory audit/inspection function and that it should collate, analyse and possibly publish Northern Ireland-wide planning information on performance, application numbers, local development plan preparation etc.

Outcomes of Reform

29. The anticipated outcomes from the proposed reform programme are:
- a more responsive planning system delivered at a local level, with enhanced local political accountability;
 - a streamlined development plan system, with a more meaningful level of community involvement;
 - a more effective development management system, with a greater focus given to economically and socially important developments;
 - a system more capable of discharging the statutory obligations to have due regard for the need to promote equality of opportunity;
 - improved efficiency of processing and greater certainty about timescales;
 - a change in the culture of the planning system: seeking to ‘front load’ the development plan consultation process, make plans more strategic in nature, and to facilitate and manage

development, rather than mainly controlling undesirable forms of development;

- stronger collaborative working across a range of stakeholders; and
- a better match of resources and processes to priorities and improved value for money for all users of the planning system through more proportionate decision-making mechanisms.

30. These proposals lay the foundation for an improved planning system which the Department believes will encourage the investment Northern Ireland needs for economic growth, creating jobs and opportunities for all, while promoting fairness, inclusion, equality of opportunity, and protecting the best of our natural and built environment. They aim to improve confidence and trust in the system and move it from a system that is seen as reactive and bureaucratic to one that is more positive and dynamic.
31. Some of the proposals are at a more advanced stage of development than others. Some require legislative change and others require changes to policies, procedures and processes. The Department intends to work closely with all who have an interest in the planning system and welcomes your views and comments on the proposed measures. This consultation paper provides anyone who wishes an opportunity to comment on the proposals, as well as on certain related issues where the Department is seeking views. The consultation process plays an important part in informing and framing the new planning system.
32. There are a number of consultation questions throughout the document and, for ease of response, these are summarised in a separate consultation response document. We would appreciate you taking the time to provide us with your comments. The consultation exercise runs until 2nd October 2009.

Assessments

33. Government bodies are required to screen the impact of new policies and legislation against a wide range of criteria, including equality and human rights. There are also requirements introduced either by the Executive or as a result of UK government or international obligations for environmental, rural, regulatory and health impact assessments. The results of the Department's initial screening exercises are highlighted below.

Equality Impact Assessment

34. A draft Equality Impact Assessment (EQIA) at a strategic level has been prepared as part of the Department's Section 75 statutory duties in response to the Programme for Government (PfG) proposals. It is intended that the draft EQIA at a strategic level will help establish a foundation for subsequent Section 75 activities that will continue to ensure that due regard for the need to

promote equality of opportunity and regard for the desirability of good relations are mainstreamed within each stage of development and implementation of the reform programme up to and beyond 2011. The draft EQIA at a strategic level is being published at the same time as, and in conjunction with, this consultation paper and we would welcome your views on the draft assessment. A copy of the draft EQIA at a strategic level is available on our website at <http://www.planningni.gov.uk>.

Rural Proofing

35. Rural proofing is a process which ensures that government policies are examined carefully and objectively to determine whether or not they have a different impact in rural areas. The Department has considered the guidance on rural proofing provided by the Department of Agriculture and Rural Development and has completed the checklist developed by the Rural Development Council (see annex 10).

Regulatory Impact Assessment

36. Government procedures require that a Regulatory Impact Assessment must be prepared for all proposals (legislative and non-legislative) which are likely to have a direct or indirect impact (whether benefit or cost) on businesses, charities, social economy enterprises and the voluntary sector. This includes proposals which reduce costs on business and others, as well as those that increase them. A partial Regulatory Impact Assessment is contained at annex 9.

New Targeting Social Need

37. New Targeting Social Need (New TSN) requires all government departments and relevant agencies to tackle social need and social exclusion by targeting efforts and available resources on people, groups and areas in greatest objective social need. The proposed reforms of the planning system have been examined to determine the extent to which New TSN applies. The proposals are intended to make the planning system more effective and efficient and thus ensure that it is fit for purpose in terms of playing its role on delivering on the Executive's Programme for Government commitments.
38. The proposals relating to planning policy, reflecting the desire to produce shorter, more focused planning policy statements, will help make them more accessible to all and will enable government policies to be applied more quickly on the ground through the development plan and development management systems.

39. It is proposed that district councils will be required to prepare a statement of community involvement which will set out procedures for involving local communities in the preparation and revision of local development plan documents and for consulting on planning applications.
40. In relation to development plans, the proposals for a more streamlined development plan system aim to ensure a more meaningful and effective approach to enabling interested parties and the local community to engage early in the plan process. These proposals, combined with the fact that responsibility for development plans will be transferred to local government under RPA, will enable district councils to target action to tackle social need and promote social inclusion.
41. Similarly, the development management proposals are designed to allow for more proportionate decision-making mechanisms and should therefore enable district councils to focus resources on those development proposals which are of the greatest economic and social benefit in their areas. The proposals also allow for increased community engagement at an earlier stage in the process and, as such, facilitate and encourage the inclusion and consideration of the views of communities with the greatest social need who might otherwise be excluded.

Other Assessments

42. The policy areas have also been screened in terms of their potential impacts on crime, community safety, health, human rights, state aid and environmental issues. At present, it would appear that the proposals will apply uniformly to all groups with no adverse impact in these areas.
43. The Department welcomes views on whether the conclusions contained in the above assessments are correct.

How to Respond

All responses should be made in writing and submitted to the Department no later than **2nd October 2009** in one of the following ways:

1. By post to:

Planning Reform Consultation

Planning Service

1st Floor

Millennium House

17-25 Great Victoria Street

Belfast

BT2 7BN

The '**Postal Response Form**' can be used for this purpose, if desired.

2. By e-mail to: planning.reform@doeni.gov.uk

The '**Online Response Form**', which can be downloaded from the Planning Service website (www.planningni.gov.uk), can be used for this purpose, if desired.

3. By fax (marked 'Planning Reform Consultation Response') to: 028 9041 6960.

Please note that the 'Respondent Information Form' must also be completed and returned with your response to ensure that we handle your response appropriately.

In keeping with our policy on openness, the Department will make responses to this consultation paper publically available. When publishing responses received on behalf of organisations, the Department will also publish the organisation's name and address. When publishing responses received on behalf of individuals, the Department will not publish details of the individual's name and address.

We look forward to receiving responses to the proposals and issues raised within this consultation document. Additional copies of the consultation document can be downloaded from the Planning Service website at www.planningni.gov.uk or requested via the postal address, e-mail or fax numbers above, or by telephone on 028 9041 6767, or by Textphone on 028 9054 0642. This document is available in alternative formats - please contact us to discuss your requirements.

In order to facilitate further engagement and involvement on the proposals for reform, it is also

intended to hold a number of stakeholder events across Northern Ireland during the public consultation period. Further details of these events will be posted on the Planning Service website (www.planningni.gov.uk) and advertised in the local press.

If you have any comments or complaints about the consultation process itself (rather than the content of this document), these should be directed to the postal or e-mail addresses above.

Chapter 1 - The Case for Reform

This chapter looks at the purpose of the planning system, why it needs reformed, the impact of the Review of Public Administration (RPA) on planning functions, the Department's vision for reform, and the anticipated outcomes of the proposed reform measures. We also detail some of the reform measures currently underway to ensure improvements in a number of key operational areas.

The Purpose of the Planning System

- 1.1 The planning system is fundamentally about ensuring the effective and efficient use of land in the public interest and contributing to achieving sustainable development in cities, towns and rural areas. It is also about supporting the delivery of the Executive's economic and social aims and objectives for Northern Ireland, including, for example, making provision for the creation of shared spaces that are accessible to all and where people can live, work and socialise. It helps us plan the spatial development of Northern Ireland and plan for the essential infrastructure we need. It also assists central and local government to deliver their objectives: schools, hospitals, affordable housing, waste management facilities, infrastructure for transport - all require planning permission. The planning system seeks to ensure that land and property development takes place in an orderly and measured way and meets the expectations of various communities. Planning impacts on everyone's life and, therefore, a planning system which is responsive to our needs as a society is essential.
- 1.2 The planning system, as well as facilitating development, seeks to ensure that this development is sustainable and reflects society's concern to protect the environment. There can be an inherent tension in these objectives. The system has to strike an appropriate balance between furthering development and the protection of our rich natural and built heritage, and do so in a way that reflects society's wishes as a whole. Good planning is about being able to reach agreement with people on what can be built, or how land can be used, and then to deliver consistent, fair and speedy decisions based on this consensus.

The Need for Reform

- 1.3 With the return of the Northern Ireland Assembly in May 2007 the Executive has set new economic and social goals for the future of Northern Ireland. While land use and development has to balance complex environmental, social and economic issues, the Executive has made it

clear that its top priority for the next three years is to contribute to, and encourage, economic growth. In addition, the Executive emphasised the importance of delivering a major programme of investment in public infrastructure, as well as promoting tolerance, inclusion, health and well-being, protecting and enhancing our environment and natural resources, and delivering high quality and efficient public services.

- 1.4 A modern, efficient and effective planning system is critical to achieving the Executive's overarching aim and in helping to deliver on its key priorities. While economic growth and the delivery of infrastructure puts pressure on the environment and natural resources, the planning system plays an important role in ensuring this is balanced with protecting and enhancing the quality and character of our countryside and urban areas through effective policies. It is recognised that the planning system must take account of, and be consistent with, wider environmental and social objectives.
- 1.5 In addition to the opportunities for reform presented by devolution and the RPA (see paragraphs 1.17 to 1.20), there have been many criticisms of the current planning system and widespread consensus that it needs to be improved. Depending on the different positions taken, some assert that the planning system is slow, costly and inconsistent in its decision-making processes, and that it does not adequately respond to the Executive's priorities for economic growth and investment, thus impacting negatively on the economic well-being of Northern Ireland. Others assert that the planning system is overly focused on economic development and does not reflect the wider environmental and heritage values of a modern society, nor does it effectively engage communities.
- 1.6 The Department recognises that the planning system needs to be efficient and effective and more responsive to the many and varied challenges we are facing today, including sustainable development, promotion of economic growth, environmental protection, climate change and demands for more affordable housing. In addition, we have to work within an increasingly complex legislative and policy framework at European, national, regional and local levels. As the pace and complexities of change and development have increased so the planning system requires modernisation to ensure that it can continue to discharge its statutory responsibilities and meet the expectations of different communities.
- 1.7 The need to reform the planning system here mirrors moves in England, Scotland, Wales and the Republic of Ireland to modernise their planning systems, or significant elements of them. In general terms, the justification for such reforms are broadly the same, and there are lessons to be drawn from the different experiences, while acknowledging that reform in Northern Ireland has to

explicitly take account of our own particular characteristics. In all the jurisdictions, however, there is a common recognition of the need to reform the planning system in ways that will build greater understanding and help ensure trust and confidence in planning.

Ongoing Improvements

1.8 Reform of the planning system does not start from a zero base. In 2002 a Modernising Planning Processes programme was commenced to ensure a simpler, faster and more transparent planning system, improve enforcement and assist the preparation of development plans. Changes introduced included:

- new performance targets;
- new validation procedures;
- the removal of Crown immunity from planning control;
- stronger enforcement powers; and
- more flexible, efficient and less adversarial procedures for considering objections to development plans.

While these measures have brought about improvements to planning processes and changes to planning legislation, we recognise that more radical measures need to be implemented if we are to build further on these improvements.

1.9 The implementation of the Electronic Planning Information for Citizens project (ePIC), which is due for completion in March 2010, will make an impact on the planning system by enabling a faster, more effective, efficient and transparent service. A number of e-Planning products are now accessible via the Planning Service website. These include:

- Planning Explorer – an electronic tool that allows customers to access information about their application, potentially negating the need for them to telephone or visit Planning Service offices;
- Planning Application Advice System – this calculates the correct fee for any given planning application, identifies the application forms required and allows customers to complete an application form on screen for printing and posting to Planning Service. The full e-PIC system from March 2010 will allow online submission of applications;
- Development Plan Viewer - an electronic tool that allows anyone to view development plans via the Planning Service website.

1.10 A priority of the Programme for Government is, ‘growing a dynamic, innovative economy’. This

contains a commitment to decide all large scale investment planning proposals within 6 months, provided there have been pre-application discussions with an agreed outcome. In response to this commitment the Planning Service has created two teams within the Strategic Projects Division to process applications for large scale investment projects, including facilitating pre-application discussions. Speeding up the process puts an obligation on everyone, including developers and their representatives, to commit to improving the quality of applications.

- 1.11 These teams are now evolving into multi-disciplinary teams to include planning professionals and other key professionals from relevant disciplines. These teams should ensure that, during the consultation process, the potential for delay caused by awaiting responses from consultees is minimised and will be key in delivering this Programme for Government commitment.
- 1.12 One of the teams will also monitor projects which emerge from the current Investment Strategy for Northern Ireland to ensure that their contribution to, and delivery of, the Executive's regional investment priorities for economic and social delivery is not delayed by the planning process. These include developments such as infrastructure projects for schools and hospitals, which make a significant contribution to the achievement of the Executive's wider objectives and targets for the growth of Northern Ireland.
- 1.13 Work is also underway to ensure improvements in a number of key operational areas. This work will continue throughout the duration of the reform programme and will make immediate impacts in some areas, while also supporting and informing the approach that we are proposing for some of the longer term changes. For example, the introduction of a streamlined council consultation scheme with Derry City Council has reduced the average processing time of minor, straightforward planning applications to 24 working days. By the end of March 2009, the scheme had been rolled-out to all councils. As well as delivering immediate benefits, this key project will provide a solid foundation for the use of officer delegation schemes in the future when responsibility for the majority of planning functions transfers to district councils.
- 1.14 Other key projects intended to have an immediate impact include a joint working group involving Planning Service, Roads Service and the Construction Employers Federation, the aim of which is to improve the quality of major housing applications and speed up the decision-making process in order to deliver quality residential developments on the ground. Planning Service has also reviewed and improved its approach to various internal processes, including the handling of appeals and reserved matters applications.
- 1.15 In order to further improve accessibility and customer service, the Planning Service is participating in a major initiative, known as NI Direct, which has been endorsed by the Executive

with the aim of improving significantly citizens' experience when trying to access information and services from government. A pilot exercise was initiated in the Belfast Divisional Planning Office in July 2007 which was successful in enabling almost 50% of calls to be resolved at first point of contact (thus freeing up more time for processing applications), reducing the waiting time for calls to be answered and reducing the number of calls missed. Similar call contact services for development control calls were rolled-out to all Divisional Planning Offices from October 2008.

- 1.16 In relation to development plans, a protocol agreed with the Planning Appeals Commission, which sets out key milestones and timescales for the pre-examination stage of the plan process, has already delivered improvements in the management of this part of the process. In addition, the legislative change which replaced public inquiries with an independent examination has resulted in significant time savings: for example, the hearing for the Craigavon Town Centre Boundaries and Retail Designations Plan was completed in only 3 days. The Department has also introduced improved project management procedures and set rigorous performance management targets for development plans in order to improve management control of plans and clarify timescales and key milestones for the overall process.

Impact of the Review of Public Administration

- 1.17 In March 2008, the Environment Minister announced the key decisions on the future shape of local government flowing from the review of the local government aspects of the RPA. These decisions were seen as representing a solid foundation for the development of strong, effective local government that would deliver a broader range of services, including a significant range of planning functions. Of key importance is the provision of high quality, efficient services that respond to the needs of people and continuously improve over time. The Minister recognised the importance of local government being closer to citizens and the need for a balance of responsibility between the Assembly and local government.
- 1.18 In relation to planning, the changes announced will see Northern Ireland move away from the current unitary system, where the Department sets policy and also deals with all planning applications, to a two-tier planning system similar to that in England, Scotland, Wales and the Republic of Ireland. Following the implementation of the RPA, local government will have responsibility for the majority of key planning functions, including:
- local development planning;
 - development management (excluding regionally significant applications); and
 - enforcement.

- 1.19 In addition, local government will assume responsibility for associated resources, including finance and funding, accommodation, facilities, assets and Planning Service staff who will transfer with the relevant planning function. Decisions have yet to be taken on how local government will deliver these services: whether through individual district councils or through some form of group or other shared service arrangement.
- 1.20 Central government will retain responsibility for regional planning, planning policy, determination of regionally significant applications, legislation, oversight, guidance for councils, audit, governance and performance management. Annex 2 contains a detailed list of the respective planning responsibilities of local and central government following the implementation of the RPA.
- 1.21 The new district councils, when duly designated as public authorities under Section 75, will be obliged to have due regard to the promotion of equality of opportunity in the same way as central government. When responsibility passes to the new district councils it will be important to ensure that mechanisms are in place to consolidate the mainstreaming of due regard for the need to promote equality of opportunity and, without prejudice to same, regard for the desirability of good relations in local planning systems, compliant with Section 75.

Our Vision for Reform

- 1.22 In order to deliver on the Executive's aim for sustainable economic growth, we need an improved planning system that delivers for Northern Ireland: supporting and facilitating sustainable economic and social development through efficient and effective processes and procedures. We need a planning system that is flexible, listens to local communities and takes their views into account. We can only achieve this vision through a change of emphasis and a change of culture as well as a change in policies, procedures, legislation and structures. If significant improvements are to be achieved we all need to contribute to the reform of the planning system - not just the Planning Service, but also developers, architects, designers, consultees, communities and objectors.

Objectives for Reform

- 1.23 The objectives for the reform programme are to bring about improvements so that the planning system:
- supports the future economic and social development needs of Northern Ireland and manages development in a sustainable way, particularly with regard to large, complex or strategic developments;

- is delivered at the right level with the appropriate managed processes for regionally significant, major, local and minor applications;
- has streamlined processes that are effective, efficient and improve the predictability and quality of service delivery; and
- allows full and open consultation and actively engages communities.

Outcomes

1.24 The Department envisages the following outcomes from the proposed reform programme:

- a more responsive planning system delivered at a local level, with enhanced local political accountability;
- a streamlined development plan system, with a more meaningful level of community involvement;
- a more effective development management system, with a greater focus on economically and socially important developments;
- a system more capable of discharging the statutory obligations to have due regard for the need to promote equality of opportunity;
- improved efficiency of processing and greater certainty about timescales;
- a change in the culture of the planning system: seeking to ‘front load’ the development plan consultation process and make plans more strategic in focus; and to facilitate and manage development rather than mainly controlling undesirable forms of development;
- stronger collaborative working across a range of stakeholders; and
- a better match of resources and processes to priorities and improved value for money for all users of the planning system through more proportionate decision-making mechanisms.

Summary

1.25 Northern Ireland’s devolved government has brought with it a change of emphasis and a change of priorities. The Executive’s top priority is to grow the economy, underpinned by creating a better future through fairness, inclusion, equality of opportunity and sustainability, and it is clear that the planning system must adapt to better support these aims. With the RPA there is a commitment to re-structure the planning system, with the majority of planning functions being devolved to local government. It is critical that the planning system and transferring functions are fit for purpose at the point of transfer. These changes represent opportunities as well as challenges, but they will not happen overnight: some changes will require new or amended legislation, others can be implemented more quickly. We have already taken steps to make

immediate improvements and the benefits from these improvements are already becoming evident.

- 1.26 The Department has identified the drivers for reform and has a vision of what a reformed planning system should look like. This consultation paper puts forward proposals and seeks views on how this vision can be achieved. Your input is important in helping to ensure that the planning system as a whole is better for all. This is our opportunity to create a planning system which is quicker, clearer, more accessible and with resources better matched to priorities.

Chapter 2 - Planning Policy

The Department is considering the need for reform of planning policy in relation to two separate but interlinked areas:

- the future role and status of planning policy statements (PPSs) in light of the impending transfer of key planning functions to district councils as a result of the Review of Public Administration (RPA); and
- the content of and process for preparing PPSs.

Introduction

2.1 The planning system guides the future development and use of land in our cities, towns and rural areas in the public interest. The central purpose of the system is to determine what kind of development is appropriate, how much is desirable, where it should be located and what it looks like. The Regional Development Strategy for Northern Ireland and planning policy statements are the key planning documents at a regional level influencing future development outcomes across the region. By producing more focused planning policy statements, in shorter timescales, this will assist in enabling earlier delivery of the relevant policies on the ground and in contributing to the delivery of other overarching government policies, such as those targeted at tackling social need and promoting social inclusion.

Regional Development Strategy

2.2 The Regional Development Strategy (RDS) - ‘Shaping Our Future’ – was formulated by the Department for Regional Development (DRD) in September 2001.³ It contains a spatial development strategy and related strategic planning guidelines that offer a strategic and long term perspective on the future development of Northern Ireland up to the year 2025. The importance of the RDS to the planning system is underlined by a statutory requirement that all planning policy and development plans made by the Department of the Environment (DOE) must be ‘in general conformity’ with the Strategy.

Planning Policy Statements

2.3 Planning policy statements (PPSs) sit below the RDS and are prepared by the DOE. They are

³ The first 5-year review of the RDS was completed in June 2008, resulting in a number of minor adjustments to the Strategy. DRD has recently commenced a more fundamental review of the RDS and this is due to be completed in 2010.

required to be in general conformity with the RDS. These provide operational policy and guidance on a range of planning issues: for example, industrial development, enforcement and the built heritage (see annex 3 for a list of the current suite of published PPSs). They set out the main planning considerations that the Department takes into account in assessing proposals for the various forms of development across Northern Ireland and are often relevant to the preparation of development plans. They are also material to decisions on individual planning appeals.

- 2.4 There are a number of important differences between the function of PPSs in Northern Ireland and their equivalents in the rest of the UK and the Republic of Ireland (RoI). This arises largely because of the different administrative structures that exist here, particularly the current concentration of planning functions within central government. Given the transfer of the majority of planning functions to local government under the RPA, it is timely, in the context of this reform programme, to consider the future role and status of PPSs.
- 2.5 Elsewhere in the UK and in the RoI national policy and guidance on planning issues are set out in a variety of planning policy documents which local planning authorities then translate into detailed policies and proposals in the production of development plans for their areas. In Northern Ireland, however, PPSs differ in style and content, most notably through the incorporation of detailed operational policy which in other parts of the UK and the RoI is more often found in the local development plan. Therefore, development plans in Northern Ireland generally cross-refer to the provisions of PPSs, as appropriate, and their policies are not then reproduced in the plans.
- 2.6 These differences arise mainly because the planning system in Northern Ireland is delivered by central government, which combines a number of functions that elsewhere in the UK are split between central and local government. In addition, England, Scotland and Wales all operate a plan-led system, which means that development proposals are initially assessed against the development plan.
- 2.7 Another key issue is that the existing process for producing or reviewing planning policy takes too long, up to two years or more, with a large part of this attributable to consultation and stakeholder engagement.
- 2.8 Problems have also arisen in seeking to provide comprehensive policy on certain land use topics that can be applied equally to the different circumstances arising throughout Northern Ireland. This can result in somewhat unnecessary detail in PPSs or, alternatively, may mean that certain local policy issues are not adequately addressed at regional level. This has resulted in difficulties for other aspects of the planning system, particularly where development plans have sought to fill

policy gaps. In part, the current position has arisen as a result of the different role and status of PPSs in Northern Ireland. The Department is, however, determined to produce shorter, more focused documents, in a shorter timescale.

Proposals

- 2.9 The Department, therefore, proposes that PPSs should, in future, provide strategic direction and regional policy advice, which would then be interpreted locally in local development plans, subject to the proviso that any detailed local policies should be aligned with central government plans, policy and guidance. While there is potential for tension between the local and central government level (where a district council may seek in its local development plan to deviate from regional policy advice), appropriate checks and balances, to be introduced as part of the new local development plan system, will require alignment with PPS policy and should address this issue. (Chapter 3 contains detail on a reformed local development plan system.)
- 2.10 The Department also proposes that the content and process associated with production of PPSs should reflect the desire to produce shorter, more focused documents, in a shorter timescale. The intention is that PPSs would set out the policy framework to achieve high level strategic objectives at a regional level, but retain sufficient flexibility to permit decisions to be taken based on local circumstances. As such, PPSs would, in future, only contain context, direction and such policy detail that the Department deems necessary, with increased use of complementary documentation, such as separately produced supplementary or best practice guidance.
- 2.11 The Department recognises that the proposed move to a more strategic focus for PPSs is a major change with significant linkage to the wider proposals under the planning reform agenda and the RPA, particularly the transfer of responsibility for many planning functions to local government. In addition, it is recognised that the existing suite of PPSs cannot all be changed overnight from detailed operational statements to documents providing strategic advice and direction. This change in role of PPSs will take some time and needs to be considered in light of ongoing changes to, and the future role of, the regional planning and development plan system.

Question 1

Do you agree that, in future, planning policy statements should provide strategic direction and regional policy advice only, which would then be interpreted locally in development plans?

Question 2

Do you consider there are any elements of operational policy which should be retained in planning policy statements?

Chapter 3 - Towards a More Effective Development Plan System

In recent years, across all the UK jurisdictions, there has been a fundamental review of planning systems. Reform of the development plan system has been viewed as one of the most important aspects of the changes needed to create a more efficient and effective planning system. In Northern Ireland it has been recognised that the existing plan system has not been meeting current needs and must be improved in order to enable planning, as a whole, to become more effective in managing the development process. This chapter sets out the Department's proposals for a new local development plan system, taking account of the decisions on the Review of Public Administration (RPA). The key changes being proposed are:

- a more flexible and faster local development plan that consists of two separate but related documents (Plan Strategy and Site Specific Policies and Proposals) (see diagram 2). These two documents will be published, examined and adopted separately, enabling the Plan Strategy document to be adopted quickly, within approximately two years;
- a more meaningful and effective approach to enabling interested parties and the local community to engage early in the plan process through replacing the current issues paper with a preferred options paper and requiring the plan process to follow a clear statement of community involvement;
- a faster and more effective basis for examining plans at independent examination, moving away from the objection-based examination process to one which tests the 'robustness' of the plan (in terms of plan content, conformity with central government plans, policy and guidance, and the process by which plans are produced);
- a streamlined approach to the form and content of representations about the draft plan and the way they are dealt with at independent examination;
- new procedures in relation to plan programme management to ensure better managed and faster plan production;
- a requirement that plans are regularly and effectively monitored and reviewed in order to ensure that new plans are as flexible and responsive to change as possible; and
- a requirement that sustainability appraisals are carried out for local development

plans to ensure that economic and social effects are included along with environmental effects in plan assessment and to assist in the objective of plans contributing to the achievement of sustainable development.

Introduction

- 3.1 Development plans apply regional policies at the appropriate local level and inform the general public, statutory authorities, developers and other interested bodies of the policy framework and land use proposals that will guide development decisions within a specified area. At present, all types of development plans (area plans, local plans and subject plans) are prepared by the Department of the Environment (DOE). Development plans allocate appropriate land for differing types of land use and, as well as setting out the main planning requirements which developers are expected to meet in respect of particular zoned sites, they also show designations such as conservation areas, areas of outstanding natural beauty, sites of local nature conservation importance and so on. In making decisions on planning applications, the planning authority⁴ must have regard to the relevant provisions of the development plan for the area⁵.
- 3.2 The Planning (Amendment) (NI) Order 2003 (amended by the Planning Reform (NI) Order 2006) introduced the ‘plan led system’ into Northern Ireland which gives primacy to the development plan as a material consideration when making decisions on planning applications. While this provision is not yet commenced, it is the Department’s intention to commence it in advance of the transfer of the majority of planning functions to district councils. The introduction of a ‘plan led system’ will provide a greater level of certainty for everyone involved in development but it will also mean that it is even more important to reform and streamline development plans.

Question 3

Do you think it appropriate to commence a ‘plan led’ system in advance of the transfer of the majority of planning functions to district councils under the Review of Public Administration?

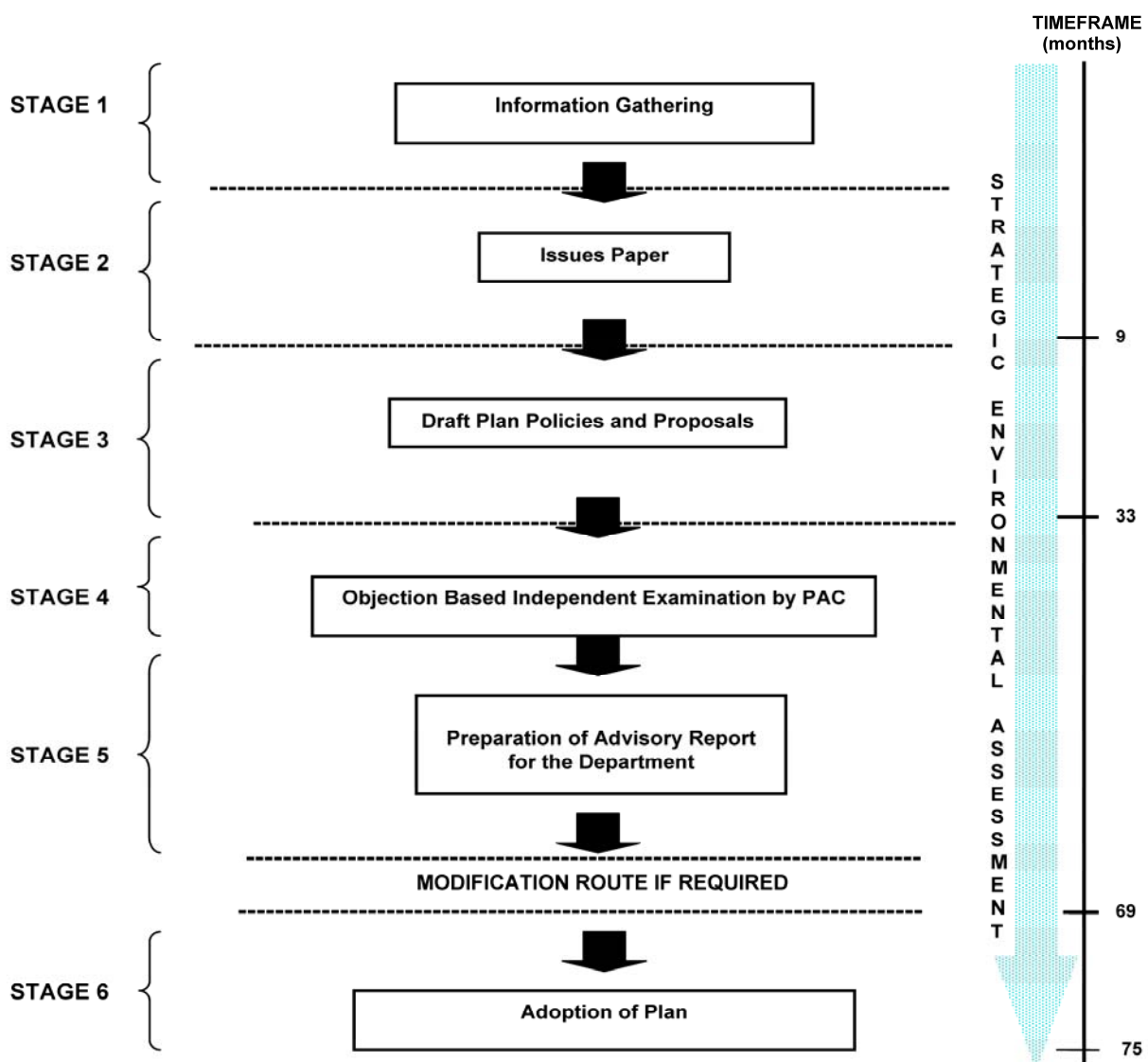
- 3.3 Currently, central government is responsible for both regional planning (for the whole of Northern Ireland) and local planning (individual areas). Responsibility for regional planning is shared by the DOE and the Department for Regional Development (DRD). DRD is responsible for the Regional Development Strategy (RDS) whilst DOE has responsibility for planning policy

⁴ Currently the Planning Service but from 2011 it will be the new district councils that will determine the majority of planning applications.

⁵ Under Article 25(1) of the Planning (NI) Order 1991.

statements (these provide operational guidance on a range of issues, e.g. industrial development, enforcement, telecommunications etc.) and for the production and co-ordination of development plans within the region. The RDS (currently under review) offers a strategic and long term perspective on the future development of Northern Ireland up to the year 2025. It sets the context in which to make policy and development decisions in order to achieve sustainable development throughout the region. Development plans are a fundamental tool in the implementation of the RDS. Diagram 1 below shows the current process for preparing a development plan.

Diagram 1: Existing Development Plan System



Proposed Local Development Plan System

- 3.4 The implementation of the RPA decisions will see responsibility for local planning, including the production of local development plans, passing to the new district councils, while regional planning will remain with central government. DRD and DOE are working together to develop proposals on how central government will exercise its regional planning role, which in broad terms will be to set the regional strategy and vision for Northern Ireland and provide an appropriate regional planning framework within which the new district councils will develop their own local development plans for their areas.
- 3.5 In preparing to transfer local development planning to district councils, the Department acknowledges that there has been a number of problems with the current system. It is currently taking too long to prepare, amend and adopt plans and, therefore, they are no longer providing the basis for an effective planning framework for today's fast changing society. In particular, the independent examination/public inquiry stage of the process has resulted in significant delays to plans in recent years. This has been due to many factors, including a lack of early consensus about the plan. This has resulted in increasing numbers of site specific and often speculative objections, which, in turn, are dealt with through a protracted and complex process at independent examination. Finally, plans are often neither user friendly nor easily understood as they tend to be complex and so detailed that the strategic vision and direction can become obscured.
- 3.6 As part of the reform agenda, the Department has formulated proposals for a new local development plan system, which seek to meet the following objectives:
- produce plans which are more strategic in vision and approach;
 - indicate how places should change and what they will be like in the future;
 - more effective participation from the public and other key stakeholders early in plan preparation;
 - more effective programme management and speedier delivery of plan documents;
 - a more flexible approach that is responsive to change and capable of faster review;
 - a stronger link between the evidence base and plan policies and proposals; and
 - a more strategic-based independent examination process that focuses on testing the 'robustness' of the plan⁶.

⁶ Paragraph 3.34 provides further clarification on 'robustness'.

Question 4

Do you agree that the objectives contained in paragraph 3.6 are appropriate for local development plans?

- 3.7 The Department considers that local development plans, which will be prepared by district councils, should fulfil the following functions:
- provide a 15-year plan framework to support the economic and social needs of Northern Ireland in line with regional strategies and policies, while providing for the delivery of sustainable development;
 - facilitate sustainable growth by co-ordinating public and private investment to encourage development where it can be of most benefit to the well-being of the community;
 - allocate sufficient land to meet society's needs;
 - provide an opportunity for all stakeholders, including the public, to have a say about where and how development within their local area should take place; and
 - provide a framework for rational and consistent decision-making by the public, private and community sectors and those affected by development proposals.
- 3.8 The power to prepare local development plans, in conjunction with the new powers of community planning and well-being, will give district councils a new and effective opportunity to develop agreed future visions for their areas and to prepare a co-ordinated and planned approach to delivering this vision. The community plan, together with the local development plan, will enable district councils to target action to help tackle specific local issues, such as social need, social inclusion, equality issues and other local spatial issues. Development plans, as drawn up by the Planning Service, have historically been subject to equality screening and assessment, as applicable. This requirement will rest with the new district councils when responsibility for local development plans moves to local government. The new local development plans will be effective tools in assisting district councils to fulfil their duties under Section 75 of the Northern Ireland Act to have due regard to the need to promote equality of opportunity and good relations. It is envisaged that there will be a strong link between community plans and local development plans prepared by district councils. In addition, the proposed requirement to undertake sustainability appraisals (see paragraphs 3.47 – 3.51) will ensure that the plan strategy and the site specific policies and proposals will be assessed against social and economic objectives, such as the need to address poverty.

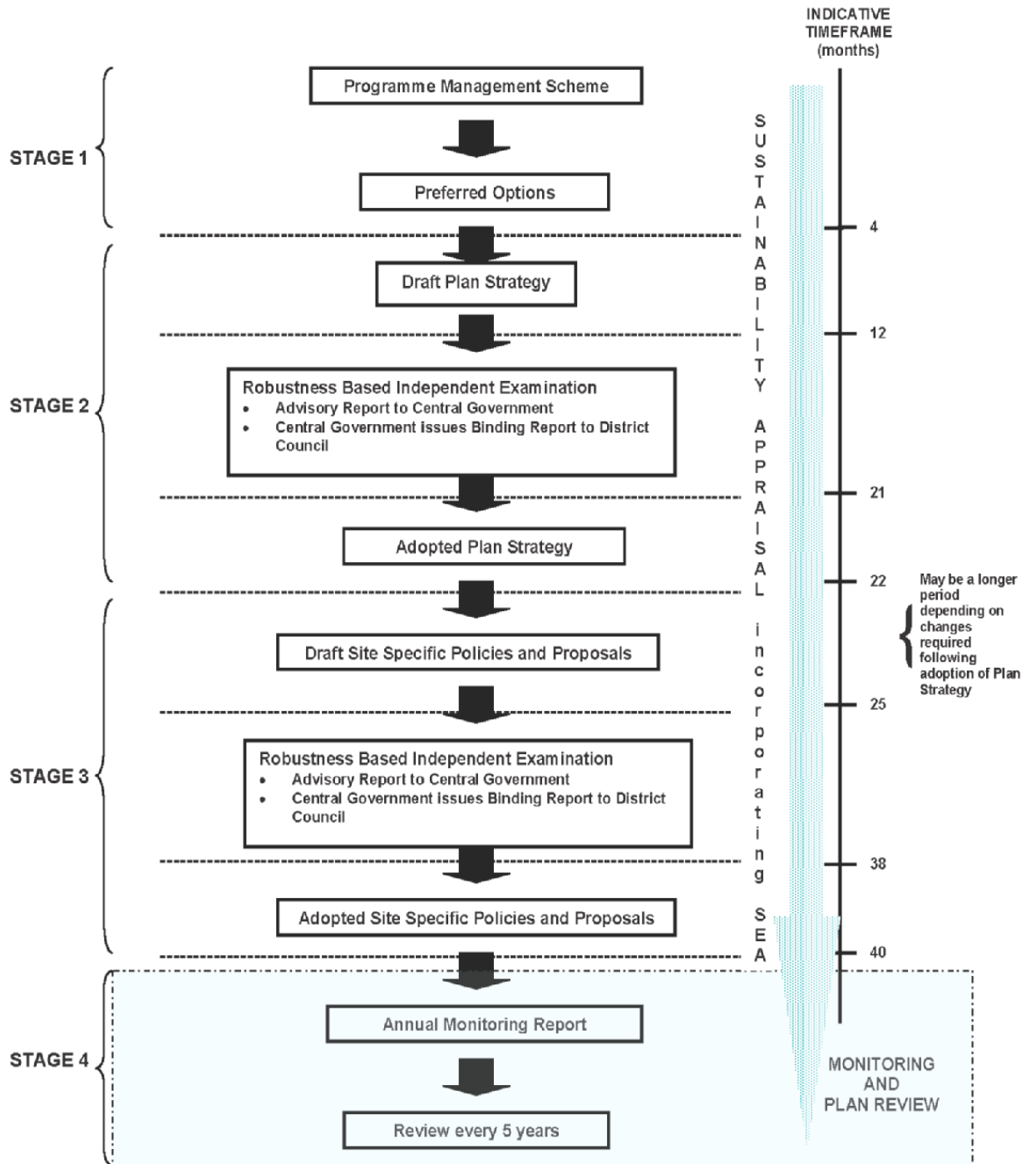
Question 5

Do you agree that the functions contained in paragraph 3.7 are appropriate for

local development plans?

- 3.9 The Department proposes that district councils will be required to prepare local development plans for their areas which will replace development plans prepared by the Department. District councils will be required to commence local development plans for their area within an agreed timescale as set out in the programme management scheme, to ensure plan coverage is in place as quickly as possible. The following paragraphs examine how a new local development plan system might look and operate. Specifically, the paper addresses issues such as the plan content and the overall plan process involved in producing a new local development plan. Other changes needed to ensure that any new system is efficient and effective are also addressed.
- 3.10 The proposed new local development plan process is set out in diagram 2 below and is explained stage by stage from paragraphs 3.12 to 3.43.

Diagram 2. Proposed Local Development Plan Process



3.11 It is anticipated that these proposals will reduce the length of the overall development plan preparation process to approximately 40 months, with the initial Plan Strategy document being produced within two years. However, this timescale would depend on the implementation of the combination of proposals for the new local development plan system; in particular, improvements recommended for the independent examination process (more detail on this is set out in paragraphs 3.31 to 3.41). It will also be dependent to some extent on overall district council practice and procedures that will be adopted post-RPA.

Stages in Proposed Local Development Plan System

3.12 The Department proposes the following changes to the development plan process, to coincide with the transfer of local plan preparation functions to district councils.

Stage 1: Plan Initiation to Preferred Options

3.13 This section describes the early part of the proposed local development plan process, including the statement of community involvement, the programme management scheme and production of the preferred options paper.

Statement of Community Involvement

3.14 Currently the Department is required⁷ to prepare a statement of community involvement (SCI) which is a statement of the Department's policy for involving the community in development proposals, including both development control and development plan-making. Post-RPA, this responsibility will also fall to district councils who will be required to prepare a SCI for their new planning functions. The Department views the SCI as a fundamental tool in the development plan process and considers that it will enable district councils to carry out more inclusive and effective community consultation for their plans. It will also help better promote equality of opportunity and community relations through increased awareness of community participation and involvement. District councils will, therefore, be required to have this statement in place before any consultation on the local development plan can begin. Further details on SCIs are provided in paragraphs 8.12 – 8.15 in chapter 8.

Proposal

3.15 The Department proposes to amend the current legislation to make it a requirement that a district council, where it has not already done so, must have its statement of community involvement in

⁷ Under Article 3A of the Planning Reform (Northern Ireland) Order 2006.

place and agreed by central government before any public consultation on the plan takes place.

Question 6

What are your views on the proposal that a district council's statement of community involvement must be in place before any public consultation on the local development plan?

Programme Management Scheme

- 3.16 Programme management is essential in delivering development plans more efficiently and effectively. This has been reflected in planning reforms in the other UK jurisdictions with various forms of programme management tied into their plan preparation processes.
- 3.17 A common feature in the various forms of programme management is a public statement of a planning authority's programme for the production of the development plan. In Northern Ireland, this will be known as a programme management scheme (PMS). Such a scheme will set out the programme for the production of key documents in the plan preparation process, including key milestones and timelines for plan production, covering all elements of the process through to adoption. It will also indicate at what points in the process particular documents (such as the draft plan, impact assessments etc.) will be produced, and stipulates the proposed titles and subject matter to be covered by each document. In the other jurisdictions there is also a procedure for obtaining central government agreement to the programme management scheme.

Proposal

- 3.18 With the transfer of powers to new district councils, and as part of the enhancements proposed to the development plan system, the Department proposes to introduce a legislative provision that will require district councils to prepare programme management schemes for their local development plans. Historically, the independent examination/public inquiry part of the plan process has been quite protracted; therefore, it is important that district councils liaise with central government to agree these timescales as part of the programme management scheme. The programme management scheme will help ensure the plan process is efficiently managed and that the public, stakeholders and consultees are aware of key milestones in the process. The schemes must be submitted to, and agreed by, central government before the plan preparation process begins.

Question 7

What are your views on the proposal for a programme management scheme?

Preferred Options Paper

- 3.19 Public and stakeholder participation, particularly at the start of the process of developing a new plan (currently known as the Issues Stage) is regarded as crucial in identifying relevant issues and local views in the plan process from the outset. It is clear that the current issues paper approach has not provided an adequate basis for early and meaningful public and key stakeholder engagement. The public and stakeholders currently only become aware of the direction of the plan proposals when the draft plan is published, which is well into the plan process. Consequently, this has led to a significant increase in representations to the draft plan, which has contributed to lengthy public inquiries/independent examinations.
- 3.20 A key feature of the new English local development framework system is consultation at an early stage on ‘preferred options’ for growth and development of the area, often referred to as ‘front loading’ community and stakeholder involvement. Strengthening early involvement in planning is a key principle underlying any plan system as there are widespread benefits in involving communities and stakeholders as early as possible in the preparation of plans. It should lead to better informed development plans and a higher level of ownership, which in turn should mean fewer representations to the plan as it progresses to adoption.

Proposal

- 3.21 The Department, therefore, proposes to replace the current issues paper with a preferred options paper. The preferred options paper will contain:
- a series of options for dealing with the key issues in the plan area;
 - evidence to appraise the different issues and options; and
 - the district council’s preferred options and their justification.

This preferred options paper will be used as the basis for consulting with the public and stakeholders and it is envisaged that this will help interested parties to become involved in a more meaningful way at this earlier stage of plan preparation and provide them with an opportunity to put forward views and influence the local development plan. This should help to reduce the volume of representations at the next stage of consultation when the draft plan documents are published.

Question 8

Do you agree that a preferred options paper should replace the issues paper?

Stages 2 and 3: Preparation of Draft Plan Strategy and Site Specific Policies and Proposals to Plan Adoption

3.22 The following stages of the local development plan process consist of the publication of a draft Plan Strategy document, followed by a draft Site Specific Policies and Proposals document, both of which will be subject to separate scrutiny by independent examinations prior to adoption. The draft Plan Strategy document and the draft Site Specific Policies and Proposals document will both be based on the information gathered, and the community's response to, the preferred options paper produced in stage 1.

Proposed Local Development Plan Documents

3.23 At present, depending on the plan area, development plans can be one document or comprise separate volumes, incorporating a plan strategy volume (which includes the plan strategy, objectives, land use allocations and policies) and one or more volumes addressing local zonings and proposals. However, these volumes ultimately comprise a single comprehensive plan, objections to which are dealt with under one independent examination⁸ and one report. The documents produced tend to be complex and lengthy, containing so much detail that the strategic vision and direction can become obscured. Furthermore, they are often neither user friendly nor easily understood and the production of a single comprehensive plan has led to a prolonged preparation period.

Proposal

3.24 The Department proposes to introduce a more flexible and faster approach by establishing a local development plan that consists of two separate but related documents (see diagram 2):

- a **Plan Strategy** document, incorporating the vision, the objectives and the growth strategy for the area and general strategic policies; and
- a **Site Specific Policies and Proposals** document, incorporating the detailed site specific plan policies and proposals for the relevant topic areas (see table 1 at paragraph 3.46 which highlights recommended topic areas).

3.25 These two documents, which together would form the local development plan, would be published, examined and adopted separately. The Plan Strategy document would be produced first, scrutinised at the independent examination stage and then adopted. Subsequently, the Site

⁸ The independent examination usually takes the form of round-table discussion with written submissions taken as read and proceedings concentrating on key issues of dispute. The Commissioner then prepares a report, which is presented to the Department for consideration.

Specific Policies and Proposals document would be completed in line with the Plan Strategy, examined at independent examination and then adopted.

3.26 The benefits of this two-stage approach are:

- unlike the current system, it allows the Plan Strategy document to be adopted quickly, within approximately two years. This will ensure early strategic direction is in place for an area and will provide a level of certainty on which to base key future development decisions in the area;
- given that the Plan Strategy is examined and adopted first, it will provide an agreed framework within which the Site Specifics Policies and Proposals document can be prepared. This will make the preparation of the Site Specifics Policies and Proposals document easier and faster; and
- this approach has the added advantage of ensuring that representations are more focused by being submitted and examined at the appropriate stage of the development plan process.

3.27 Over time, occasions may arise where an issue, or an unexpected development, relevant to a small area or topic within the overall plan area needs to be addressed. It is proposed that the new local development plan process will be able to accommodate this through allowing alterations to the plan. For example, the Site Specific Policies and Proposals document can be altered as required; however, where such an alteration would deviate from the Plan Strategy, this will require a re-run of the full local development plan process.

Question 9

Do you agree with the proposal to introduce a local development plan process that comprises two separate but related documents to be published, examined and adopted separately and in sequence?

Question 10

What are your views on the proposal to deal with amendments to the local development plan?

Changes to the Process for Dealing with Representations

3.28 Recent area plans have received thousands of representations and objections at the draft plan stage, many of which have been of a speculative nature and focused on site specific issues rather than strategic matters. The volume, complexity and nature of these representations and objections has undoubtedly contributed to lengthening the plan preparation process, in particular by lengthening the time taken for independent examination. Under the current process each objector

has the right to be heard at the independent examination. However, often their objection would be more appropriately dealt with through written representation. It is also unfortunately the case that, following such requests to be heard, a considerable number of parties have failed to show for their scheduled hearing, resulting in significant lost time and resources for all other parties involved. In addition, there is currently a protracted and complex process of preparation for the independent examination/public inquiry which requires lengthy rebuttal preparation and exchanges of evidence, all of which further delay the independent examination/public inquiry process.

3.29 The Department considers that to deal with these issues it is necessary to reform the way representations are handled throughout the independent examination process, including how they are submitted.

Proposal

3.30 The Department proposes to make it a requirement that:

- representations seeking a change to a development plan document will have to demonstrate why the plan is not robust (see paragraphs 3.34 – 3.35 on robustness), suggest a suitable solution and show how the solution complies with the robustness tests and makes the plan more robust;
- representations proposing a change to a development plan document will be required to demonstrate how the proposal meets the sustainability objectives of the development plan (see paragraphs 3.47 – 3.51);
- the form and content of representations will follow a standard template, must be submitted **in full** within the statutory public consultation period, and must relate only to proposals contained within the plan document being examined;
- there will be no further opportunity to add to, or expand on, a representation once submitted, unless requested to do so by the independent examiner;
- to provide greater flexibility in the independent consideration of representations the Department proposes to give the examiner(s) the power to determine the most appropriate procedures to be used. This would include the exercise of discretion as to which representations would be heard orally and which would be considered by way of written submission; and
- there will be no provision for counter representations other than those relating to site specific zoning issues

Question 11

What are your views on the proposal that representations to a local development plan will be required to demonstrate how their proposed solution complies with robustness tests and makes the plan more robust?

Question 12

What are your views on the proposal that representations to a local development plan will be required to demonstrate how their proposed solution meets the sustainability objectives of the local development plan?

Question 13

Should the Department give the examiner(s) the power to determine the most appropriate procedures to be used in dealing with representations to the local development plan?

Question 14

Do you agree that the representations to the plan should be submitted in full within the statutory consultation period, with no further opportunity to add to, or expand on them, unless requested to do so by the independent examiner?

Question 15

What are your views on the proposals for counter representations?

Plan Scrutiny

- 3.31 The independent examination/public inquiry stage of the process has resulted in significant delays to plans in recent years and compares unfavourably with the proposed timescales for plans in other jurisdictions. Independent examinations into objections to a development plan have recently replaced public inquiries. The new approach, which is continuing to evolve, has been used for the recent Craigavon Town Centre Boundaries and Retail Designations Plan and the Belfast Houses in Multiple Occupation Plan and has already led to considerable time savings. At the Department's request, the Planning Appeals Commission (PAC) conducts examinations to hear objections to development plans. In the past, public inquiries were often adversarial and adopted a quasi-judicial approach. Independent examinations, on the other hand, mainly take the form of round-table discussions, with written submissions taken as read, and proceedings concentrating on key

issues of dispute.

- 3.32 Following the examination, the PAC issues an advisory report to the Department with recommendations. The Department may accept or reject the recommendations before adopting the plan. The recent change to independent examinations for plans allows greater flexibility than the public inquiry approach. Nevertheless, the Department is concerned that the overall process has the potential to be lengthy and complex, dealing with an ever increasing number of objections and can take up to 2 years to complete for an area plan (depending on size of plan).
- 3.33 The proposed reform of the independent examination stage of the new local development plan process is twofold:
- (i) reforming the basis on which local development plans are tested at the independent examination; and
 - (ii) reforming the process by which local development plans are examined.

(i) Basis for Testing Plans (Robustness)

- 3.34 To speed up the process, the Department proposes to change the basis for testing plans by moving away from the objection-based examination process towards one which tests the ‘robustness’ of the plan strategy and site specific policies and proposals. Appropriate criteria will be used which will relate to how the plan has been produced, the conformity of the plan with central government plans, policy and guidance, and the coherence, consistency and effectiveness of the content of the plan (see annexes 4 and 5 for definitions of ‘soundness’ used in England and Wales). The Department considers that the introduction of a ‘robustness’ based approach will permit a greater concentration on strategic issues and lead to a speedier delivery of local development plans, a more effective basis for testing plans and ultimately better and more robust plans.

Proposal

- 3.35 The Department proposes to introduce a legislative provision to establish a ‘plan robustness’ approach as a basis for testing future local development plans.

Question 16

Do you agree that the basis for examining plans should be changed from an objection-based approach to one which tests the ‘robustness’ of plans?

(ii) Process by which Local Development Plans are Examined

- 3.36 As already discussed above, the Department is proposing to introduce a local development plan

which consists of two separate but related documents, the Plan Strategy document and the Site Specific Policies and Proposals document, each of which will be examined separately on the basis of robustness. In addition to this change, the Department also proposes to improve the overall independent examination process so that it fits in with the change in governance arrangements brought about by the transfer of the majority of planning functions to district councils.

- 3.37 In Northern Ireland, the PAC is currently the only body empowered to carry out an independent examination of a plan at the request of the Department. The PAC provides an advisory report to the Department, which in turn considers and assesses the report prior to adoption.
- 3.38 In addition, all development plans made by the Department are currently required to be in general conformity with the Regional Development Strategy (RDS), as well as departmental policy and guidance. This requires the Department to submit plans to DRD in order to receive a Statement of General Conformity with the RDS before the plan can be adopted. This also adds time to the overall plan preparation process. In the post-RPA regime, while it will be necessary to ensure local development plans continue to take proper account of central government plans, policy and guidance, it is important that there is an efficient and simple system for doing this.

Proposal

- 3.39 It is proposed that legislation should be put in place to require district councils to submit draft local development plans to the Department of the Environment (DOE) for scrutiny to ensure they are aligned with central government plans, policy and guidance. The existing legislative requirements⁹, that development plans prepared by DOE must be in general conformity with the RDS and the provision of statements on their conformity, will not be carried forward for local development plans prepared by district councils. However, the current requirement¹⁰ that DOE shall have regard to the RDS in exercising any functions in relation to development in Northern Ireland will continue to apply to the DOE, post-RPA.
- 3.40 As part of the scrutiny process, the Department will then appoint independent external examiners to examine the local development plan on the basis of the robustness criteria referred to at 3.34 above and provide an advisory report to the Department. The PAC has faced significant workload issues in relation to its current role in carrying out independent examinations for plans and, while the Department would envisage the PAC being the main body providing examiners to carry out the examination of local development plans, it believes there are benefits in being able to appoint

⁹ Introduced through the Planning (Amendment) (Northern Ireland) Order 2003.

¹⁰ In the Strategic Planning (Northern Ireland) Order 1999.

other examiners, if necessary. Given the change of governance arrangements as a consequence of the RPA, the Department will then consider the advisory report and issue a binding report to the district council. On the basis of this binding report, the district council will then adopt the plan.

- 3.41 As mentioned previously, DRD and DOE are working together to develop proposals for the new roles and responsibilities of central government with regard to regional planning. In broad terms, the role of central government will be to set the regional strategy and vision for Northern Ireland and provide an appropriate regional planning framework within which district councils will prepare their local development plans.

Question 17

What are your views on the recommended approach for examining local development plans?

Stage 4: Plan Monitoring and Review

- 3.42 The monitoring and review of plans are seen as essential elements in establishing how plans are being implemented and whether any changes are required. Currently, the Department is seeking to establish additional baseline data and improve monitoring systems and it considers that better monitoring, together with more regular reviews of development plans, will mean that they would have the flexibility to readily reflect and adapt to changing circumstances. At present in Northern Ireland there is nothing in legislation requiring monitoring and review of development plans, unlike Scotland, England and Wales, where it is a statutory requirement.

Proposal

- 3.43 It is proposed to introduce legislative provisions to:
- ensure regular monitoring of the implementation of the local development plan through key indicators such as housing, environmental protection, employment land and the production of an annual monitoring report by district councils; and
 - ensure the regular review of the Plan Strategy and Site Specific documents, at least every 5 years, on the basis of the annual monitoring report(s), and to bring forward alterations to the plan as required, thereby facilitating a rolling programme of up-to-date local development plans.

Question 18

What are your views on the proposals to ensure regular monitoring and review

of local development plans?

Content of Proposed Local Development Plan

3.44 It is proposed that the new local development plan should contain the following basic components within the Plan Strategy document and/or the Site Specific Policies and Proposals document:

- a map-based spatial strategy showing where development should and should not take place and the location of key development proposals;
- policies and proposals which are logically derived from the spatial strategy which conform with central government plans, policy and guidance;
- a description of the rationale and justification for the policies and proposals of the plan with particular regard to the scale and distribution of development; and
- measures for implementing, managing, monitoring and reviewing the plan.

3.45 In addition, mechanisms such as delivery agreements and master plans could be developed, where appropriate, by a district council to help deliver the plan objectives. Recently prepared plans, such as the Belfast Metropolitan Area Plan, have used master planning in relation to large strategic sites.

3.46 The recommended topic areas which may be covered by the Plan Strategy and the Site Specific Policies and Proposals documents are highlighted in the table below.

Topic Areas for Local Development Plans

Topic Area	Plan Document	
	Plan Strategy	Site Specific Policies and Proposals
Vision	X	
Plan Strategy and Objectives	X	
Settlement Hierarchy	X	

Housing (including mixed use)	X	X
Employment	X	X
Environment and Conservation	X	X
Retailing and Town Centres (including offices)	X	X
Transportation	X	X
Countryside (including the coast)	X	X
Design	X	X
Open Space, Sport and Recreation	X	X
Tourism	X	X
Education, Health, Community and Cultural Uses	X	X
Utilities	X	X
Waste	X	X
Minerals	X	X
Renewable Energy & Climate Change	X	X
Flood Risk Management	X	X
Agriculture, Forestry and Fishing	X	X

Plan Delivery Proposals	X	X
Plan Monitoring Proposals	X	X
Plan Review Proposals	X	
Some topic areas may not be applicable due to local circumstances		

Question 19

Do you agree with the proposed content of local development plans as set out in paragraph 3.44?

Question 20

Do you consider that the topic areas contained in paragraph 3.46 are appropriate for inclusion in local development plans?

Sustainability Appraisal

- 3.47 Strategic environmental assessment (SEA) is a process that is carried out when a development plan is being prepared and which aims to integrate environmental considerations in strategic decision-making. The objective of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive) is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development.
- 3.48 The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 requires development plans to be subjected to, and informed by, an environmental assessment as set out in the SEA Directive.
- 3.49 Sustainability appraisal (SA) is a concept which involves assessing the social and economic effects of development plans in addition to environmental effects. These social and economic effects will include addressing issues such as poverty, social exclusion, economic growth and inward investment. SA covers the requirements of the SEA Directive as well as a wide range of sustainable development issues. Similar to SEA, the SA process will also consist of the

preparation of a SA scoping report and a SA report¹¹, both of which will be subject to public consultation and taken into account in the decision-making and plan adoption process. It is essential that the requirements of the SEA Directive and the need for SA are addressed at the initial stages of the plan preparation and throughout the plan process. An example of the structure and content of a SA report is provided at annex 6.

- 3.50 It is also anticipated that the introduction of SAs would better fulfil the legislative requirement (introduced by Article 6 of the Planning Reform (NI) Order 2006), which will apply to new district councils, requiring that policy and plan-making functions are exercised with the objective of contributing to the achievement of sustainable development.

Proposal

- 3.51 The Department proposes to introduce a statutory requirement that sustainability appraisals are to be carried out for local development plans which will comply with the requirements of the SEA Directive and the Environmental Assessment of Plans and Programmes Regulations (NI) 2004.

Question 21

Do you agree that district councils should be required to prepare sustainability appraisals as part of their local plan preparation process?

Role of the Department

- 3.52 The purpose of the planning system is to formulate and co-ordinate policy to secure the orderly and consistent development of land and the planning of that development. The Department considers it appropriate to be able to intervene, if necessary, in the local development plan process to secure this objective.
- 3.53 Throughout the proposed local development plan process described above there are occasions when the Department interacts with district councils: for example, in relation to the plan programme management scheme and the scrutiny of both the draft Plan Strategy document and draft Site Specific Policies and Proposals document. At such times the Department will have specific powers of direction related to the part of the process with which the Department is involved.

¹¹ This incorporates the Environmental Report required by the 'European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment'.

Proposal

3.54 In addition, it is proposed to introduce a more general power for the Department to secure the delivery of the local development plans where the district council is not making any progress. It is envisaged that these powers could be exercised at any time in the plan process. However, it is expected that they would be very rarely used and only as a last resort in exceptional circumstances. This proposal is in parallel with other UK jurisdictions.

Question 22

What are your views on the proposal that the Department should have the powers to intervene in the making, alteration or replacement of a local development plan by the district council?

Joint Working

3.55 In a post-RPA context, it is considered that there may be advantages in joint working arrangements between district councils in the making of local development plans. There may be instances where neighbouring district councils would consider it beneficial to work together: for example, where an important natural resource, such as the Mourne or Lough Neagh, crosses district council boundaries, or where the planning issues pertaining to an area would be better dealt with jointly, such as in the Belfast Metropolitan area.

Proposal

3.56 Provision will, therefore, be made so that two or more district councils may prepare joint local development plans. The procedures for the preparation of a joint local development plan would be the same as those for a single development plan.

Question 23

a) Do you agree that district councils should be given the power to make joint local development plans if they so wish?

b) Do you consider that such powers would adequately deal with instances where neighbouring district councils would consider it beneficial to work together?

Existing Plans and the Transition to the Local Development Plan Process

3.57 It is also important to consider both how existing DOE plans, which will be at different stages in

the plan process, will be dealt with, and what the transitional arrangements will be to ensure a smooth and effective transition from the old plan system to the new system following transfer of planning powers to new district councils.

Proposal

3.58 The Department proposes to introduce legislative provision that will require the following transfer arrangements for plans at different stages:

- (a) **Plans pre-publication of issues paper.** Limited work will have taken place on these plans and they can easily be started afresh by the district council: therefore, for all these plans, including transboundary plans, work will stop and district councils will begin preparation of the new local development plan system on transfer of functions.
- (b) **Plans pre-publication of draft plan (post-publication of issues paper).** For all these plans, including transboundary plans, work will stop and district councils will also be required to start the plan afresh and the new local development plan system will be implemented on transfer of functions.
- (c) **Draft plans.** The Department will continue to progress those plans at draft plan stage at the date of transfer and will then adopt them. In the period up to the transfer of functions the Department will work to ensure that very few plans fall into this category. At the same time, the new district councils will have the powers to create new local development plans for their respective areas.
- (d) **Adopted plans.** Adopted plans will remain in force until they are replaced by a new local development plan. To ensure this, the power to withdraw and repeal DOE plans will not be available to district councils. District councils will not be required to adopt a new local development plan until the DOE adopted plan has passed its end date, although they will be free to do so earlier if they wish.

3.59 The Department is keen to undertake some preparatory work, involving the gathering of relevant background information, with the new district councils, through the RPA transition management structures, in order to allow an early start to the formal local development plan process as soon as powers transfer to district councils in 2011. The availability of resources and competing work priorities and demands across the Department may mean such preparatory work can only be undertaken in a small number of pilot areas but it is hoped that we would be able to commence work on such data collection.

Question 24

What are your views on the proposed transitional arrangements for development plans?

Chapter 4 - Creating a Streamlined Development Management System

This chapter sets out the Department's proposals for modernising the planning application system. The proposals aim to create a more responsive, fair, predictable and efficient system through:

- changing the culture of the planning application process to a development management approach, away from operating the planning system as a mainly regulatory process towards a more dynamic way of enabling and facilitating sustainable economic and social development;
- establishing a hierarchy of development based on a 3-tier classification of developments so that resources can be focused on the management of those applications with economic and social significance through more proportionate decision-making mechanisms, tailored according to the scale and complexity of the proposed development;
- introducing new streamlined processes for applications within the hierarchy to 'front load' the process through promoting earlier engagement at pre-application stage, improve the predictability of timescales and ensure effective engagement of the community and elected members;
- examining the scope for extending permitted development rights for certain householder, minor and non-householder developments, including those associated with small scale renewable energy technologies;
- re-examining the role of consultee bodies within the planning application process;
- strengthening control over the partial demolition of unlisted buildings in conservation areas and areas of townscape or village character;
- placing greater emphasis on the enhancement of conservation areas;
- seeking views in relation to changing the duration of planning permission and some consents;
- enabling non-material changes to planning permissions; and
- bringing forward a proposal for the correction of errors in decision notices.

Introduction

- 4.1 Currently, the Planning Service is responsible for processing all applications for planning permission. This is commonly referred to as the development control system. Prior to the recent downturn in the local construction industry and also the wider issues currently prevalent in the UK economy, the Planning Service received, on average, 30,000 applications each year (over the last four years). The majority of these (approximately 75%) were for some form of residential development. The volume of applications not only reflected the pressure for development but also testified to the increasing complexity and burden placed on the planning system by a significantly increased workload. Until very recently this created resource and capacity problems for the Planning Service and contributed to delays in planning decisions.
- 4.2 Apart from those major (Article 31), strategic and specialist planning applications dealt with by Planning Service Headquarters¹², the steps currently involved in processing all applications are largely the same. In other words, a predominantly ‘one size fits all’ approach prevails, regardless of the scale and complexity of the application when compared to the impact of the proposed development. Consequently, low impact applications (i.e. those of lowest public interest or impact on amenity) get a disproportionate amount of attention compared to higher impact developments which need greater levels of resources, professional skill and public engagement to determine.
- 4.3 To overcome these problems the application system needs to become more proportionate, faster and more responsive to the needs of all users. This will also ensure that it is a strong and effective tool for enabling the new district councils and their elected members, post-RPA, to create good quality sustainable places for their communities. In addition, district councils will be able to focus resources on those development proposals which are of the greatest economic and social benefit in their areas. The proposals also allow for increased community engagement at an earlier stage in the process and, as such, facilitate and encourage the inclusion and consideration of the views of communities with the greatest social need who might otherwise be excluded. The Department also recognises that this will help district councils deliver inclusive environments that can be used by everyone, regardless of age, gender or disability. Given the complexities of the planning application processes, consultation will be key to determining a system that is fit for purpose in the context of Northern Ireland. Section 75 considerations will be taken on board as the

¹² Currently major applications are defined under Art 31 of the Planning (NI) Order 1991. Strategic projects are dealt with through the Strategic Projects Division at Planning Service HQ; this unit also has responsibility for processing specialist applications for minerals, waste, energy and major infrastructure projects.

consultation process proceeds and, where significant impacts are found with regard to one or more of the Section 75 categories, then an EQIA will be carried out, as appropriate.

Development Management

- 4.4 Development management is more than a new name for development control. Traditional development control activity acts as a mainly regulatory process, focused on the scrutiny and determination of applications. Development management is a more dynamic way of helping to achieve sustainable outcomes, particularly in relation to assisting economic and social development, through encouraging earlier engagement on development proposals (through ‘front loading’ the process, particularly at pre-application stage of certain applications) and making decisions on planning applications with greater transparency to promote high quality sustainable development.
- 4.5 As part of development management, the Department is proposing to adopt a more proportionate approach to decision-making, moving away from a system which considers the majority of applications under the same process to one that is more responsive to different types of development proposals. This will allow resources to be prioritised and dedicated to those applications with greater economic and social significance, in proportion to the scale, complexity and impact of the proposed development.
- 4.6 Importantly, development management preserves necessary safeguards, such as protecting amenity, and the natural and built heritage, and strengthens effective engagement with the community in the consideration of proposals. While some aspects of development control will, therefore, remain important, development management places a stronger emphasis on influencing, engaging and negotiating with the various interests to deliver sustainable and improved development. The key differences between development control and development management are summarised in a simplified form in the table below.

Table 1: Comparison of development control with development management

Development Control	Development Management
<ul style="list-style-type: none"> • Purpose is focus on processing applications to control development and minimise harm with limited enhancement to quality of the final development 	<ul style="list-style-type: none"> • Purpose is to manage development with a focus on pre-application discussion to maximise achievement of desired outcomes for government, district councils and their communities
<ul style="list-style-type: none"> • Asks at submission of formal application stage if the proposal is contrary to plans and policy and therefore likely to be refused 	<ul style="list-style-type: none"> • Asks at pre-application stage what are the key policy issues that need to be addressed if the proposal is to be acceptable in principle and how it can help to deliver regional policy and better quality places for district councils and their communities
<ul style="list-style-type: none"> • Seeks views of communities after submission of application • Other agencies are consultees in the process 	<ul style="list-style-type: none"> • Seeks views of communities at pre-application stage for significant developments, in addition to application stage • Seeks to work in partnership to secure agreed development, particularly with key consultees and relevant stakeholders
<ul style="list-style-type: none"> • Handles all applications with predominantly ‘one size fits all’ process 	<ul style="list-style-type: none"> • Develops proportionate processes for all applications appropriate to the scale and impact of individual developments

4.7 The Department believes that development management will make a significant contribution to the modernisation of the planning system as part of the transfer of planning functions to district councils. The Department has already begun to prioritise the processing of strategic applications through its Strategic Projects Division, and has introduced pre-application discussions (PADs) for strategic and major applications. For the processing of minor, non-contentious, applications, it has introduced streamlined council consultation procedures. To help ensure that development management will deliver better quality places for district councils and their communities, post-RPA, the Department will build on these measures already introduced. The main benefits expected from the introduction of a development management system are that it will:

- enable all planning applications to be processed more efficiently by proportionate and streamlined decision-making that allows resources to be dedicated to those applications with greater economic and social significance, tailored according to the scale and complexity of the proposed development;
- provide a more effective system of pre-application discussion between developers, their agents, consultees and provide early consultation for local communities;
- facilitate more effective project management to help reduce delays and improve the quality and content of applications, particularly for economically and socially significant developments; and
- achieve better prioritisation of professional resources, particularly at the beginning of the decision-making process.

4.8 Securing these benefits requires a fundamental change in behaviour and attitude by those who operate the planning system as well as those who interact with it. Not only do processes need to change but also the culture of those involved and associated with the planning system. In particular, a cultural shift from being primarily the regulator of development to being more focused on shaping and facilitating appropriate development opportunities is at the very heart of creating a new planning system in Northern Ireland.

4.9 Key elements of the new development management system will include:

- a new development hierarchy with new categories of applications;
- performance agreements, including pre-application discussions;
- pre-application consultation between prospective applicants and communities;
- pre-determination council hearings; and
- schemes of delegated decision-making.

Each of these elements is addressed in greater detail below.

A New Hierarchy of Development

- 4.10 As mentioned previously, the Department has tended to rely predominantly on a ‘one size fits all’ approach to processing applications, except where they fall into a special category such as ‘Article 31’ cases or where development requires an environmental impact assessment. Development management will apply to all types of development.
- 4.11 Establishing a hierarchy of development recognises that the processes for considering development proposals need to be commensurate with the impact of the individual development. The need for good outcomes and customer service means that development management must deliver quality developments in a reasonable and more predictable timeframe. Applications for economically and socially significant development will require considerably more assessment and processing resources than local developments which, by comparison, are less complex and, on the whole, raise fewer public interest issues. The new hierarchy aims to direct resources to where they can add the most value and, in particular, to give applications for economically and socially significant development appropriate priority in the development management system.

Proposal

- 4.12 The Department proposes to introduce the following 3-tier hierarchy of development for all planning applications:
- regionally significant development;
 - major development; and
 - local development.

Defining the Hierarchy

- 4.13 The Department intends to bring forward appropriate legislation on the development hierarchy, its proposed categories of development and respective thresholds, as well as advice and guidance on how the development management system will operate. Post-RPA, it is proposed that regionally significant applications will be determined by the Department with the decision taken by the Minister. This category of application will be processed under revised Article 31 powers (see paragraphs 4.14 – 4.15). Decisions on planning applications for categories of major and local development, which will form the majority of applications, will be taken by the new district councils. The following sections give an overview of how categories of development might be defined.

Regionally Significant Developments

4.14 Regionally significant developments will form the top tier of development proposals which have a critical contribution to make to the economic and social success of Northern Ireland as a whole, or a substantial part of the region. Firstly, it is not the Department's role or intention to micro-manage district council decision-making on planning applications. Secondly, applications for regionally significant development are likely to be small in number (estimated at around 50 - 80 applications per annum). They will raise strategic considerations, with impacts or benefits that extend well beyond the area of an individual district council to the extent that they become of regional significance. It is appropriate in these circumstances that applications for regionally significant development (which broadly affect Northern Ireland as a whole) will be determined by the Department and decided by the Minister. It is proposed to revise the current Article 31 powers to take account of the RPA, and provide a basis for the legislative framework for considering applications for regionally significant development. Proposed revisions include applications which would:

- a) be of strategic significance to the whole or a substantial part of Northern Ireland or have significant effects beyond Northern Ireland; or
- b) involve a substantial departure from the local development plan for the area to which it relates; or
- c) consist of or include the construction, formation, laying out or alteration of a means of access to a trunk road or any other development of land within 67 metres of the middle of such a road, or the nearest part of a special road (or any such distances as the Department may specify); or
- d) involve significant proposals by a district council on land in which it has an interest.

4.15 It is not possible to anticipate every type of development that may give rise to an application for regionally significant development or to specify thresholds for levels of development in every case. Where prospective applicants are unsure as to whether a proposal is a regionally significant development they will be required to submit a pre-application screening determination to the Department. The Department considers that the following factors will be relevant when considering whether an application meets the revised Article 31 criteria above:

a) Developments which are of strategic significance to the whole or a substantial part of Northern Ireland or have significant effects beyond Northern Ireland:

- their contribution to the delivery of the Executive's regional investment priorities for economic and social development which form an essential element of a programme of

investment in regional infrastructure; for example, in relation to the Programme for Government, the Regional Development Strategy, the Regional Transport Strategy and key projects in the Investment Strategy for Northern Ireland, or make a significant contribution to the achievement of government aims and targets; for example, climate change, energy, or waste management;

- their contribution to Northern Ireland's sustainable development, particularly economic, commercial and residential developments whose scale and nature raise issues of more than local significance beyond a single district council area; for example, where:
 - non-retail (excluding residential) developments comprise 15,000 square metres or more gross floor space;
 - retail food stores comprise 3,000 square metres or more gross floor space;
 - other retail developments for mixed retail, retail warehouses, factory outlet centres and warehouse clubs comprise 10,000 square metres or more gross floor space;
 - housing developments comprise 500 residential units or more, or with significant implications for prevailing regional plans and policies, development plan zonings or infrastructure provision; and
 - development which may conflict with regional plans or policies;
- development that falls within the relevant description under Schedule 1 of The Planning (Environmental Impact Assessment) Regulations (NI) 1999 (as amended) where an environmental impact assessment (EIA) is always required and which (exceptionally) is not already covered by any of the above developments (e.g. development involving specialist industrial, chemical, mining, extractive installations, storage, treatment or processing facilities); and Schedule 2 developments where the environmental impacts are judged to require an EIA and which may have wide-ranging environmental effects beyond a single district council area.

b) Developments which involve a substantial departure from the local development plan for the area to which it relates:

- any application for proposed development that would involve a substantial departure from a development plan where the proposed development would have a significant impact on the implementation of regional policies and proposals; for example, major infrastructure developments.

c) Developments which consist of or include the construction, formation, laying out or alteration of a means of access to a trunk road or any other development of land within 67

metres of the middle of such a road (or as may be otherwise specified), or the nearest part of a special road or where development is likely to result in a material increase in the volume or a material change in the character of traffic entering or leaving the road:

- involves applications for proposed development in the vicinity of trunk roads or motorways which may materially affect the safe and effective movement of long distance through traffic on the strategic road network.

d) Development which involves significant proposals by a district council on land in which it has an interest:

- development of land which may have significance that extends well beyond the area of an individual district council and in which a district council has an interest; for example, as the developer or owner of the land or financial or other partnership interest.

Major Developments

4.16 Applications for major development will be determined by district councils. This category will comprise major developments with important economic, social or environmental implications for an area of an individual district council. Although likely to raise a number of issues requiring detailed assessment and specialist input they will be of a scale and impact which is less than a regionally significant development but greater than a local development. The defining characteristic of a major development is that its impacts will not extend beyond the district council area in which it is located. With potential to deliver important benefits for the local community, applications for major development will need to be given appropriate priority to avoid undue delay and risk to investment decisions. It is proposed that a major development is one which falls within the minimum and maximum thresholds of the following classes of development (see table 2 below).

Table 2 - Major Developments

Description of Development	Threshold or criteria
1. Housing	<p>Urban areas:</p> <p>a) brownfield development that comprises or exceeds 50 residential units or where the site area is or exceeds 0.5 hectares, but is not greater than 500 units or 4 hectares; or</p> <p>b) greenfield development that comprises or exceeds 100 residential units or where the site area is or exceeds 2 hectares, but is not greater than 500 units or 4 hectares.</p> <p>Within villages and other small rural settlements:</p> <p>a) any development which comprises or exceeds 20 residential units, but is not greater than 100 units.</p>
2. Retailing	<p>a) food - where gross floor space of the development comprises or exceeds 1,000 square metres, but is not greater than 3000 square metres; or</p> <p>b) non food – where the gross floor space comprises 3000 square metres, but is not greater than 10,000 square metres; or</p> <p>c) the site area is or exceeds 1 hectare, but is not greater than 2 hectares.</p>
3. Business, Industry (Light and General), Storage and Distribution	<p>a) where the gross floor space of the development comprises or exceeds 5,000 square metres, but is not greater than 15,000 sq metres; or</p> <p>b) the site area is or exceeds 1 hectare, but is not greater than 2 hectares.</p>
4. Energy Generation	<p>Development that generates energy from renewable resources where the capacity is 5 megawatts, but does not exceed 20 megawatts.</p>
5. Waste Management Facilities	<p>a) construction or use of land or buildings for the purpose of waste management, deposit, recovery and/or disposal of household,</p>

	<p>industrial and/or chemical waste which has a capacity of 25,000 tonnes per annum or greater, but is not greater than 50,000 tonnes per annum; or</p> <p>b) the site area is or exceeds 0.5 hectares, but is not greater than 2 hectares.</p>
6. Transport Infrastructure	<p>a) construction of new or replacement of existing roads, railways, public transit ways, waterways, aqueducts, or Motorway Service Areas or improvement to public transport services where the length of the proposed infrastructure is 1km or greater, but is not greater than 5 kms; or</p> <p>b) the area of working is or exceeds 0.5 hectares, but is not greater than 2 hectares.</p>
7. EIA Development	<p>All development (not already covered by any of the above classes of development) falling within the scope of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 1999 where the environmental effects are judged to require an Environmental Statement and where the environmental effects impact on a single district council area.</p>
8. All other development not within the above classes	<p>Development not falling wholly within any of the above classes 1 – 7, including development comprising a combination of those classes where:</p> <p>a) the gross floor space of the development comprises or exceeds 5,000 square metres, but is not greater than 10,000 sq metres; or</p> <p>b) the site area is or exceeds 1 hectare, but is not greater than 2 hectares.</p>

4.17 The Department wishes to ensure that the hierarchy operates throughout Northern Ireland on a consistent basis. However, it recognises that development circumstances for housing can vary between urban and rural communities in Northern Ireland. Some limited variation, therefore, has been taken into account in setting thresholds for housing development in relation to the varying function, size and existing character of the settlement pattern (see class 1, table 2 above).

Local Developments

- 4.18 Local developments will comprise all other developments (excluding permitted development) not falling into regionally significant or major categories. These developments will be of local interest only and will comprise the vast majority of residential and minor commercial applications likely to be received annually by a district council. To avoid ambiguity and differing interpretations it is not proposed to split the category of local developments into different classes. The central principle of development management is that decision-making processes should be proportionate and appropriate to the scale and complexity of the proposed development. It would, therefore, be unreasonable to expect that the procedures for ‘front loading’ the process for regionally significant or major development would be appropriate in the case of a local development proposal. The process for determining applications for local development (see delegated decision-making below) will be quick and straightforward.

Question 25

Do you agree with the proposed introduction of a new planning hierarchy to allow applications for the three proposed categories of development to be processed in proportion to their scale and complexity?

Question 26

Do you agree with the 3 proposed categories of development (regionally significant, major and local) and their respective definitions?

Question 27

In relation to applications for regionally significant development, do you consider that the 4 legislative criteria (see paragraph 4.14), in association with a pre-application screening requirement, are sufficient to identify relevant potential developments?

Question 28

Do you have any comments on the proposed thresholds for the different types of development categories, particularly in relation to the classes of major development described in table 2?

Question 29

Do you agree with the proposed approach to urban/rural variation in setting the proposed housing thresholds for major development?

Decision-making Processes

4.19 The development hierarchy will help improve performance by focusing resources and procedures according to the processing needs of the different categories of development within the hierarchy. In conjunction with the hierarchy, the Department proposes to introduce:

- performance agreements (which will include pre-application discussions);
- pre-application consultation between prospective applicants and communities;
- pre-determination council hearings; and
- schemes of delegated decision-making.

These are discussed (including related processes) in more detail below in relation to each type of development in the hierarchy.

Regionally Significant Developments

Performance Agreements

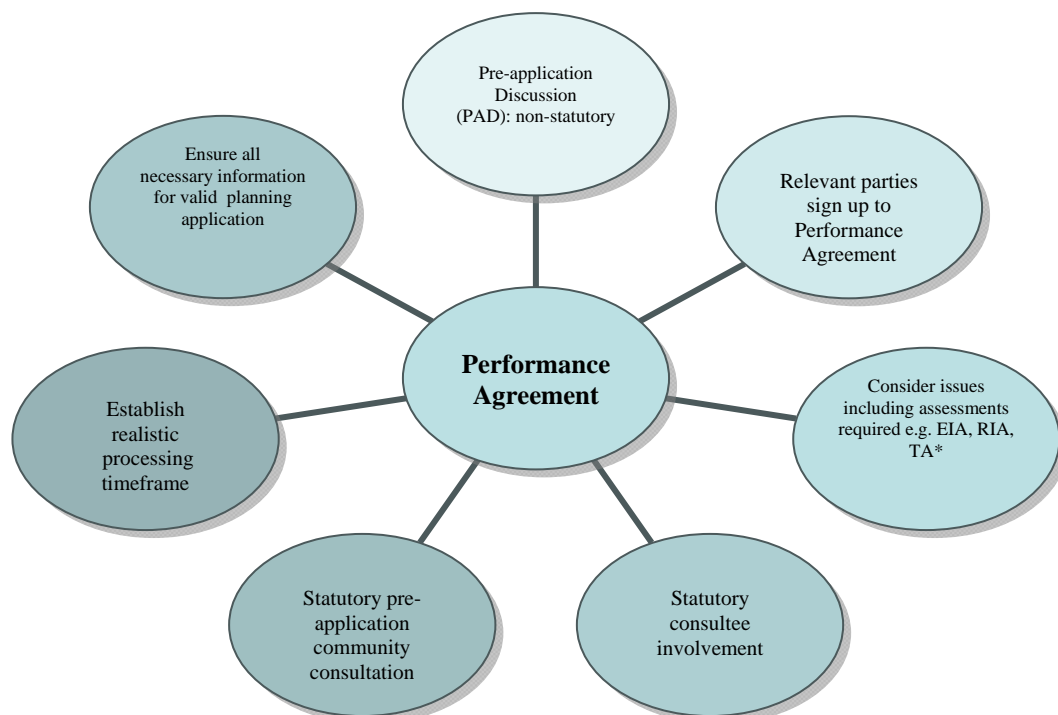
4.20 To help create the conditions for a more efficient, robust and better quality decision-making process, the Department proposes to make performance agreements (PAs) available to developers proposing regionally significant development. PAs (similar to planning performance agreements in England and processing agreements in Scotland) will be a voluntary agreement between the developer and the Department which will provide a project management framework for processing applications by identifying what should be done, when and by whom, to reduce problems and speed up the handling of these large and complex applications (diagram 1 highlights the main components of a performance agreement).

4.21 PAs will formalise communication between the Department and the developer and other partners to help bring about earlier engagement on projects, more collaborative working, project leadership and community involvement. Pre-application discussion (a recognised way of resolving issues that need to be tackled at the beginning of the process prior to the submission of a formal application in order to avoid blockages in progress further down the line) will now be set in the context of a PA. This 'front loading' will help all parties, both to prepare an application to a high standard (in terms of the material submitted and the content of the proposal) and to establish an agreed course and timetable for determining it.

4.22 A PA will ensure that pre-application discussions are integrated with the subsequent application process by providing a project management framework that combines the pre-application and formal application stages into a single process (from beginning to end). The framework commits both parties to an agreed timetable containing ‘milestones’ around the following elements:

- pre-application discussion between the Department and the developer with the purpose of identifying the key requirements and levels of information needed to ensure that all relevant aspects are properly considered in preparation for the complete and valid submission of the application;
- an agreed timetable for handling the application pre- and post-submission based on the circumstances of the individual application, including agreed tasks and responsibilities;
- clarification, in advance, of arrangements required for involving key stakeholders, including consultees, the local community (see paragraph 4.27) and elected members to ensure that all relevant aspects are considered as early as possible; and
- an agreed project plan for programming the sequence of work, the resources required (from all relevant parties) and managing key risks.

Diagram 1: Main components of performance agreements offered to developers for regionally significant developments



* Environmental Impact Assessment, Retail Impact Assessment, Transport Assessment

4.23 PAs will help maximise the benefits of pre-application discussions and improve the quality and speed of the overall process so that the full extent of efficiency savings gained through ‘front

loading' may be made later in the formal processing, determination and issuing stages of decision-making. PAs will therefore provide applicants with certainty about what the Department requires of them and how their application will be determined. In essence, these agreements allow a realistic timescale to be agreed, proportionate to the scale and complexity of the applications, but with a formal project-based approach, providing greater certainty that the agreed timescale will be adhered to and managed.

- 4.24 The Department and the applicant will agree the scope and content of a PA, according to the individual development proposal. PAs will be voluntary agreements (i.e. non-statutory) and the Department will facilitate the opportunity to set up a PA in advance of submitting a formal planning application for all regionally significant applications where the developer wishes to avail of this service. A development proposal cannot become subject to a PA after it has been submitted as a formal application.
- 4.25 The success of PAs will depend largely on a willingness to work together in a co-operative and constructive manner. The Department will prepare best practice guidance as a basis for developing the elements of culture change involved in this area of work, which it will adopt when handling applications for regionally significant development.
- 4.26 The existence of a PA does not mean the outcome of the application will be an approval. The intention is to provide certainty about issues that need to be identified and addressed from the start and determining the best approach for dealing with the proposal, including the information required and overall timetable. Where agreements exist, proposals will continue to be subject to rigorous assessment at application stage.

Question 30

Do you agree that performance agreements should be in place before the submission of regionally significant applications?

Question 31

What are your views on the suggested elements contained within a performance agreement, and setting a timescale specific to each individual application?

Question 32

Do you agree that this should be a voluntary (i.e. non-statutory) agreement?

Pre-application Community Consultation

- 4.27 The Department wishes to encourage improved trust and more open, positive working relationships from the earliest stages in the application process. Providing an early opportunity for community views to be reflected at the pre-application stage will be key to this relationship. The early involvement of local communities, particularly when combined with the new arrangements for pre-application discussion through PAs, can bring about significant benefits for all parties:
- to allow members of the public to influence the way proposals are developed by providing feedback on potential issues and an opportunity to shape the way their community develops;
 - to help local people understand better what a particular proposal means for them so that concerns resulting from misunderstandings can be resolved early on; and
 - to enable potential mitigating measures to be considered and, where appropriate, built into the proposal before an application is submitted.
- 4.28 Effective pre-application consultation with communities will also lead to applications which are better developed, and in which the important issues have been clearly set out and considered as far as possible in advance of submitting the application to the Department. Some developers already seek consultation with the local community in advance of submitting large and complex applications, particularly if there are perceived sensitivities about the proposal. This allows them to hear directly about community concerns, respond to them and show that they have done so (particularly in terms of mitigating any negative impacts and addressing any misunderstandings). Experience suggests that this can lead to shorter and more efficient considerations of the formal application and help achieve a smoother route to an acceptable planning decision.
- 4.29 There are already a number of important methods for local people to become involved in the current planning decision-making process (for example, through neighbour notification, commenting when applications are advertised, and open public access to case files). These arrangements come after the formal submission of an application when the opportunity to influence the proposal will be limited. As part of the new approach to development management the intention is to move away from the situation where a developer submits an application and the planning authority then consults the community, to one where a proposal is developed with the engagement of the community at the outset of the process, prior to the submission of the planning application. Pre-application community consultation will therefore be an additional measure to the existing right of communities and individuals to express their formal views during the application process.

- 4.30 The Department is proposing that developers will carry out pre-application consultation with the community as a statutory requirement for all regionally significant applications. Legislation will provide a framework within which proportionate consultation with the community can be developed by proposers of regionally significant development in association with the Department as the decision-maker for these developments. New regulations and guidance will be developed to ensure the adequacy of the consultation before the submission of a planning application, including how an applicant will report on the consultation that has been carried out and the planning authority verify the appropriateness of what has been consulted on and the methods used.
- 4.31 It is important that the prospective applicant consults appropriately with the community when required to do so and that the Department can satisfy itself before accepting an application that the applicant's pre-application consultation activity meets the required standard and that its outcomes are in the public interest. The Department will therefore give consideration to introducing a power to decline to determine regionally significant applications where pre-application community consultation is required but has either not been carried out or the applicant has not complied with the requirements for pre-application consultation that may be set out in regulations.
- 4.32 The Department would like to hear views about what pre-application consultation with the community should involve, with whom (including the role of the relevant district councils), what form it might take (including the possible range of methods and techniques that could be used) and its timeliness, prior to the submission of an application. It is anticipated that the following elements will be considered necessary as part of providing consistent and transparent practice in relation to pre-application community consultation:
- prior notification to the planning authority¹³ that an application is to be lodged (called 'proposal of application notice') stating what consultation the applicant proposes to undertake, when it will take place, what form it will take and with whom;
 - pre-application consultation with the community in the form of at least one public meeting and publication of details in the local press; and
 - a pre-application community consultation report to accompany the application when submitted, and which the planning authority will be required to consider prior to validating the application. The report should set out who was consulted, how the applicant responded to the community and if the proposal was amended as a result.

¹³ The planning authority will be the district council or the Department depending on whether the proposal is regionally significant or major development (refer to paragraphs 4.47-4.51) in relation to major development.

Question 33

Do you agree that developers should hold pre-application consultation with the community on regionally significant developments?

Question 34

Do you agree pre-application community consultation should be a statutory requirement?

Question 35

Do you have any views on what the form and process for verifying and reporting the adequacy of pre-application consultation with the community should involve, particularly in relation to the elements indicated above at paragraph 4.32?

Question 36

Do you agree with introducing the power to decline to determine applications where pre-application community consultation has not been carried out or the applicant has not complied with the requirements of pre-application community consultation?

Procedure for Regionally Significant Applications

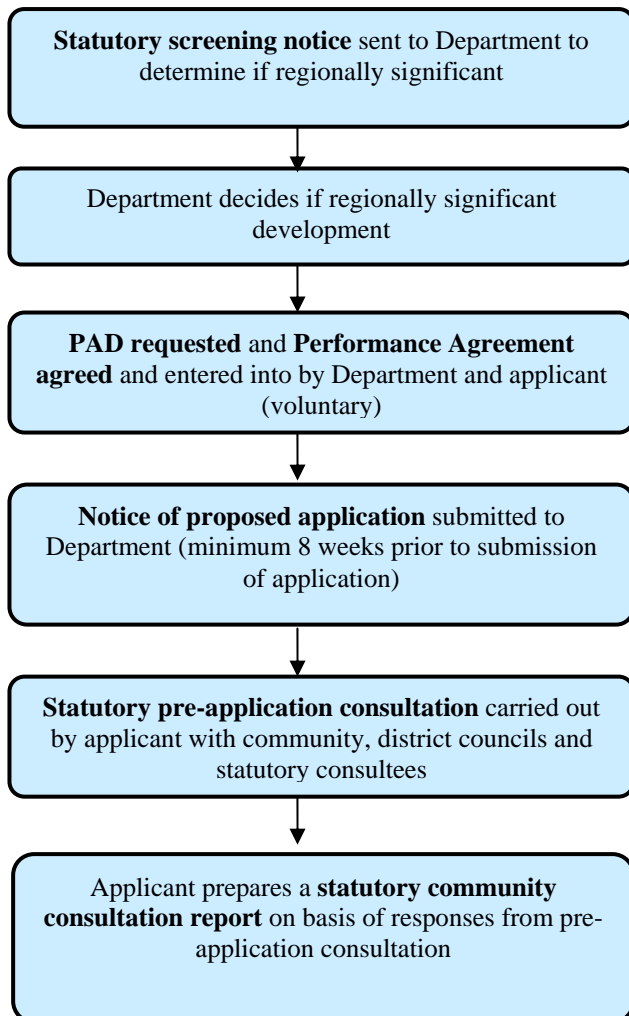
- 4.33 The Department will have responsibility for processing applications for regionally significant development. Anyone who considers their proposal for development may amount to regionally significant development (provided the development exceeds the upper threshold identified for major development, is identified as EIA Schedule 1 development, or is likely to comply with any of the other amended Article 31 criteria indicated under paragraph 4.15) will be required to submit a screening determination in that regard to the Department. It will not be open to a prospective applicant to lodge an application for regionally significant development without having obtained the Department's screening determination as to whether the proposal will be treated as an application for regionally significant development. Once the proposal has been determined as regionally significant development the prospective applicant may avail of pre-application discussions and enter into a performance agreement with the Department prior to commencing consultation with the community and the subsequent submission of a planning application.

- 4.34 The procedure for processing applications for regionally significant development once submitted will follow the revised Article 31 arrangements.
- 4.35 In exceptional circumstances the nature and scope of some applications for major development (submitted to a district council for its considerations) (see paragraph 4.47) may also raise issues of regional significance. This type of application will require the Department to consider whether it should be called-in for the Department to determine. The Department would use this call-in power very sparingly.
- 4.36 Where a district council intends to grant planning permission for an application for major development it will be required to notify the Department in circumstances where:
- a government Department or Agency has raised an objection to a major development application; or
 - it is a proposal for a major development in which a district council has a financial or ownership interest and where the proposal would be contrary to the development plan for the area.
- 4.37 The Department will decide (within a specified timeframe of 28 days) whether the application notified to it by the district council should be called-in for it to determine or returned to the district council, either with or without conditions, to make the decision. The Department will make every effort to decide whether a case should be called-in within the 28 day period. However, if it is not possible for the Department to decide whether a notified application should be considered as a regionally significant application within this specified period, a Holding Direction can be issued enabling the Department to have a further period (to be specified in subordinate legislation) in which to consider the application.
- 4.38 To avoid unnecessary call-in of applications that could be dealt with expeditiously by a district council, the Department will have the power to identify planning conditions considered necessary to ensure the acceptability of the development, e.g. on the timing of infrastructure. In such cases the Department would refer the application back to the district council directing it to grant planning permission subject to the conditions specified by the Department.
- 4.39 Diagram 2 shows the anticipated process route for applications of regional significance.
- 4.40 It is proposed to amend Article 31 procedures to improve efficiency of decision-making for applications of regional significance and reflect the new planning system post-RPA, particularly in the context of performance agreements and pre-application consultation with the community.

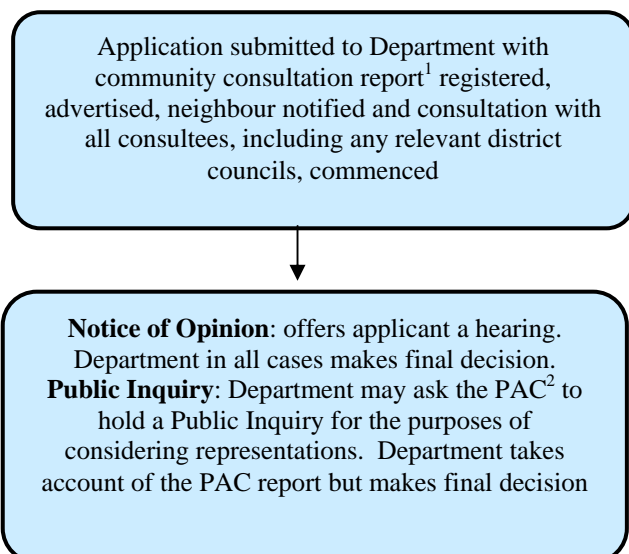
- 4.41 The Department will retain the option of having a public inquiry held by the Planning Appeals Commission (PAC) for the purpose of considering representations made in relation to the application. However, where a public inquiry is not held, the Department will be required, before determining the application, to serve a notice of opinion (NOP) on the applicant indicating the decision it proposes to make on the application and the period (to be not less than 28 days) within which the applicant may request a hearing before the PAC.
- 4.42 In the case of an inquiry, while the Department will be expected to express views on the application, it will not indicate what its decision on the application might be. Where a hearing is requested by the applicant, the Department will explain its reasons for refusal or justify the conditions set out in its NOP to approve. In practice, most Article 31 applications have been dealt with by NOP, indicating that the Department proposes to either grant or refuse planning permission. This is likely to remain the case post-RPA.
- 4.43 The Department must take into account the PAC's report of the inquiry or hearing before it decides the application but it is not obliged to accept the PAC recommendation. The Department will issue a decision, which is final, and publish the PAC's report.
- 4.44 Currently the PAC is the only body the Department may appoint to hold a hearing or inquiry. Post-RPA, it is proposed that the Department should have the flexibility to appoint independent examiners, with hear and report functions, in addition to the option of appointing the PAC, for the purposes of conducting a hearing or inquiry into a regionally significant planning application.
- 4.45 The benefit of this option is that, potentially, less time would be needed to appoint independent examiners for the purpose of conducting a hearing or inquiry into a regionally significant application. This would help speed up the decision-making process. The Department will also consider preparing procedural rules for inquiries and hearings conducted by independent examiners.
- 4.46 In addition, the Department wishes to enhance the consultation role of district councils in relation to applications for regionally significant development. Any district council affected by such a proposal will be consulted by the Department as part of new proposals for statutory consultee arrangements (see paragraph 4.77). This will enable the views of relevant district councils affected by applications for regionally significant development to be taken into account at an earlier stage of the decision-making process. This will be an important way of reinforcing the transparency and democratic nature of the planning process.

Diagram 2: Best practice process route for regionally significant developments (post-RPA)

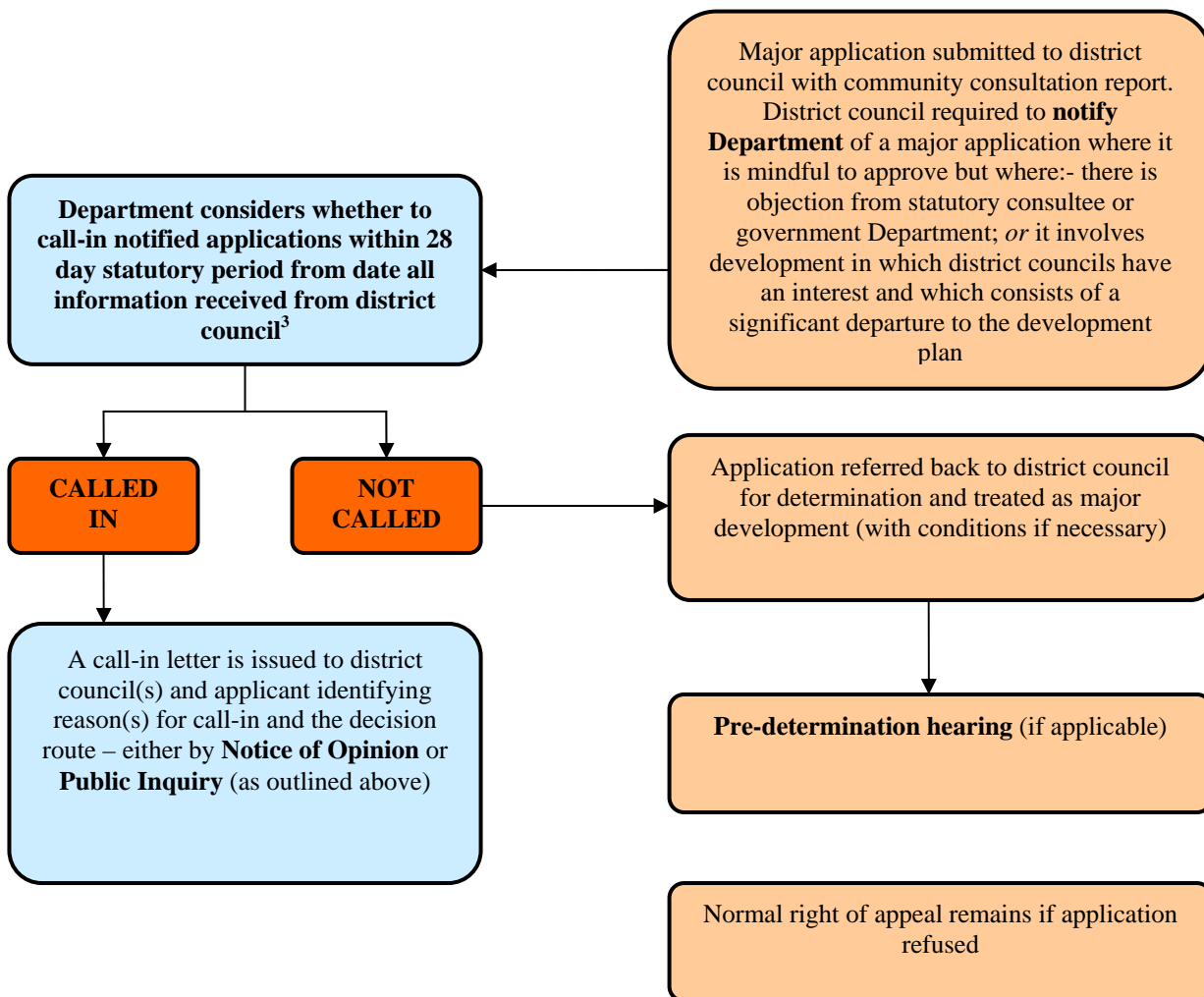
PRE-APPLICATION STAGE



APPLICATION STAGE



Major Developments requiring notification to Department at application stage



¹ If report does not meet requirements, Department can decline to determine application.

² Option to appoint independent examiners for hearing or public inquiry with hear and report function only (in addition to option of appointing PAC).

³ Holding Direction (optional): this can be made if the Department needs more time to consider whether to call-in the application.

Question 37

Do you agree that the Department should determine applications for regionally significant development in association with the proposed statutory screening mechanism?

Question 38

Do you agree with the proposal to designate a district council as a statutory consultee where it is affected by an application for regionally significant development?

Question 39

Do you agree with the proposed notification and call-in mechanism, including the pre-application and application stages indicated in diagram 2, for applications for regionally significant development?

Question 40

Do you agree that if the Department decides not to call-in a notified application it should have the option to return the application to the district council, either with or without conditions, for the district council to grant permission subject to conditions that may be specified by the Department?

Question 41

Do you agree with the proposal giving the Department the option to appoint independent examiners to hold a hearing or inquiry into applications for regionally significant development?

Question 42

Do you agree that the Department should prepare hearing and inquiry procedure rules for use by independent examiners?

Major Developments

- 4.47 Applications for major development (as defined in Table 2) will be determined by district councils. Processing these applications efficiently and achieving a high quality well planned development should be a top priority for both district councils and developers. Given the important outcomes from these types of developments for individual district council areas, the Department proposes that they should share the same processes as applications for regionally significant development in relation to pre-application discussion, performance agreements and statutory engagement with the community.

- 4.48 In order to deal with major development applications expeditiously, councils will be expected to give their processing appropriate priority as part of their resourcing arrangements for development management. Robust project management of all stages of major applications (including the pre-application stage) will also be essential to each district council's delivery of quality development in a reasonable and more predictable timeframe.
- 4.49 **Pre-application discussions** on proposals for major development are critically important and benefit both developers and district councils in ensuring a better mutual understanding of aims and constraints in order to resolve potential issues before submitting a formal application. By building on work already in progress on pre-application discussion (PADS) the Department proposes to strengthen the prospects for early and effective engagement at the pre-application stage by facilitating the use by district councils of **Performance Agreements (PA)**.
- 4.50 PAs will enable the applicant and the district council to agree a realistic timetable for the application to be determined, informed by the views of statutory consultees and the local community. Although not a statutory requirement, the Department will make it clear in new development management policy guidance that early engagement for major development is vital best practice. There will be a clear recognition that the components of a PA (as set out for regionally significant developments) can be tailored to reflect the individual circumstances of a major development proposal. In this regard a simple project plan-based approach is likely to be sufficient for less complex schemes. In conjunction with the early identification of issues and constraints relating to a major development proposal, there is the expectation that district councils will provide developers with an initial planning view as soon as practicable to help developers obtain important information about the economic, social and environmental impacts of a scheme from consultees. This will help developers identify project options which are unsuitable and not worth developing further.
- 4.51 **Pre-application community consultation** will also apply to applications classified as major developments. The district council, as opposed to the Department, will be responsible for evaluating the effectiveness of pre-application community consultation and ensuring it is carried out in accordance with requirements in relation to the notice of proposed application, nature of consultation and community consultation report. Major development proposals and the communities and environments in which they might be located will vary across Northern Ireland. The Department recognises that, whilst consultation with the community should be thorough, there will be a variety of possible approaches for ensuring that developers understand the local communities who will be affected by their planned application. Developers will therefore be

expected to work closely with the relevant district council in formulating arrangements for consulting the local community. The Department proposes to set out in legislation a framework within which proportionate consultation with the community can be developed by proposers of major developments in association with the relevant district council (also refer to paragraph 4.32). The Department will also prepare good practice advice on achieving pre-application consultation with the community.

Question 43

Do you agree that the processes for performance agreements should also apply to applications for major development?

Question 44

Do you agree that the processes for statutory pre-application community consultation should also apply to applications for major development?

Pre-determination Council Hearings

- 4.52 As part of new measures to enhance scrutiny for applications for major development which may raise issues with particular sensitivity for a local area, the Department proposes to enable district councils, at their discretion, to hold informal hearings prior to major developments being determined by the district council. A district council will have discretion over how hearings will operate. This proposal will allow district councils, where they consider circumstances warrant, to take on board local community views as well those in support of the developer. The intention is to give applicants and those who have submitted relevant representations the opportunity to be heard by the district council before it takes a decision. This will make the application process for major development more inclusive and transparent.
- 4.53 The scope to hold these hearings, for example, is likely to apply only to those applications for major developments which have attracted a significant body of relevant planning-based objections. It would be for an individual district council to judge when a significant body of relevant planning objection was a sufficient material consideration to warrant a pre-determination hearing, taking account of;
- the relevance of the objections in planning terms;
 - the extent to which relevant objections are representative of the community, particularly in the context of pre-application community consultation; and
 - The numbers of representations against the proposal in relation to the context of the locality of the proposal and the number of people likely to be affected by the proposal.

- 4.54 Pre-determination council hearings would give assurance to the public that, under the new planning system, planning decisions are being made in a clear and open forum. They would also support the emphasis in performance agreements on greater community engagement at the pre-application stage of a major application. The proposal will enable elected members to focus on important applications and help give better public satisfaction by showing that district councils are open to listening to different views before a decision is taken. Objectors are more likely to feel due weight has been given to their views, and supporters or promoters are able to respond to issues raised.
- 4.55 Some local district councils already operate informal arrangements which provide an opportunity for objectors and supporters to address them on controversial or important applications. The Department intends to enable district councils to make greater and more consistent use of this type of arrangement through pre-determination council hearings. The Department, in consultation with district councils, will develop good practice to ensure the process is fair and avoids the risk of bias.

Question 45

Do you support a power for district councils to hold pre-determination hearings, with discretion over how they will operate, where they consider it appropriate for major developments?

Question 46

Do you consider that there are other circumstances in which district councils should have the scope to hold such hearings?

Timescales for Non-determination Appeals on Major Developments

- 4.56 Where a performance agreement is entered into for the processing of an application for major development the time period for a decision will be as set out in the agreement.
- 4.57 As indicated in paragraph 4.20 above, a performance agreement is a non-statutory agreement and developers can submit an application without engaging in pre-application discussions. Where there is no performance agreement, and in recognition of the complexity of applications for major development, it is proposed to extend the 2 month period after which a non-determination appeal can be made to a statutory 16 weeks for applications classified as major development. This will align with that already used in relation to cases requiring an environmental impact assessment.
- 4.58 These proposals reduce the possibility of appeals on the grounds of non-determination and also

allow a reasonable amount of time for the determination of major applications. This will benefit district councils to the extent that their performance in these more complex cases will not be judged on time periods which are unrealistic. Applicants will also benefit from greater certainty for major cases, given that a decision within 16 weeks is more likely to be achieved than within 2 months.

Question 47

Where a performance agreement has not been reached, do you consider it appropriate to extend the non-determination appeal timescale for applications for major development to 16 weeks?

Local Developments

- 4.59 In Northern Ireland a large percentage of planning applications received annually is for extensions and alterations to existing dwellings and small scale changes to commercial and industrial buildings. Most of these developments are local in nature and non-contentious. With no impact on the wider area they tend not to raise objections and are generally straightforward approvals. The Department has had success with its pilot scheme in Derry City Council with streamlined council consultation procedures, which allow a decision in such cases to be issued without formal council consultation. Processing of these straightforward cases, which are consistent with policy and where there are no objections, is made by case officers, signed off by line managers and the final decision is taken by a senior planning officer. Councillors, however, continue to have the right to refer any planning application to their council for consideration. This scheme, which has now been rolled-out to all councils, has accelerated the processing of planning applications by allowing minor planning applications, as agreed under the scheme, to reach a decision and issue quickly.
- 4.60 In England, Wales and Scotland similar, but more extensive, arrangements are in place whereby the majority of planning applications for local development are determined by the council's scheme of officer delegation. These schemes allow a chief planning officer (or other designated planning officer) to determine specified types of application on behalf of their council in accordance with clearly stated and widely published rules. Elected members determine the basis on which a delegated scheme will operate, including the level of member involvement and the circumstances in which an officer's delegated power to make a decision may not be exercised.
- 4.61 In the rest of the UK, officer delegation has benefited all stakeholders by speeding up and minimising the costs of decision-making, without compromising on the quality of those decisions.

It has also helped free up elected members to concentrate on major or controversial cases whilst leaving officers to determine the majority of the less contentious ones. In recent years, In England and Wales, an increasing emphasis has been placed on promoting the fullest use of delegated powers. In England & Wales (2007- 08)¹⁴ an average of 90% of decisions on applications for local development were decided under delegated schemes without referral to a planning committee or the full council. This approach has been supported by the Local Government Association which has been instrumental in developing best practice guidance for local authorities on officer delegation.

Schemes of Delegation for Planning Decisions

- 4.62 Post-RPA, all aspects of decision-making on applications for local developments will transfer to district councils. In order to allow quicker decision-making on the smaller and less contentious local developments, and enable elected members to concentrate on the more significant and controversial proposals, the Department intends that each district council will be required to introduce schemes of officer delegation. The details of each delegation scheme, which will only relate to applications within the category of local developments, will be for individual district councils to determine.
- 4.63 The overall objective is to ensure that district council arrangements for decision-taking on applications for local developments are efficient whilst ensuring that proposals that raise strong local views or sensitive issues for the local environment are dealt with by elected members. Schemes of delegation will not affect the arrangements for neighbour notification and engagement on planning applications, or the ability of local people to make their views known.
- 4.64 It is considered that applications are unlikely to be suitable for delegation where:
- an elected member requests the application be referred to the planning committee;
 - they are subject to objection from a statutory consultee;
 - they do not accord with the local development plan;
 - they are made by a district council or an elected member of a district council; or
 - they relate to land owned by the district council or where the district council has an interest in the land.

Question 48

Do you agree that district councils, post-RPA, shall be required to introduce schemes of officer delegation for local applications?

¹⁴ Development Control Statistics, England 2007-08, DCLG.

4.65 Diagram 3 shows the new procedures and processes for applications within the hierarchy (post-RPA).

Regionally Significant Developments

Instrument: Programme for Government; Regional Policies and Regional Plan(s)¹; Local Development Plan

Decision Maker: Department with Minister to make final decision

Process Route: Pre-application screening notice (statutory); pre-application community consultation (statutory); Planning application with performance agreement² (non-statutory); either 1) Notice of Opinion, or 2) Public Local Inquiry (option to appoint Independent Examiners³);

Appeal: Hearing procedures for Notice of Opinion



Major Developments

Instrument: Local Development Plan

Decision Maker: District councils

Process Route: Pre-application community consultation (statutory); Planning application with performance agreement² (non-statutory);

Appeal: To PAC



Local Developments

Instrument: Local Development Plan

Decision Maker: District councils (including schemes of delegated decision-making)

Process Route: Planning application

Appeal: To PAC (option for Local Member Review Bodies³)



1 Includes Executive's Investment Strategy.

2 Performance Agreements proposed on voluntary (non-statutory) basis.

3. Details of Local Member Review Bodies are contained in Chapter 5 on Planning Appeals.

Permitted Development (including small scale renewable energy generation)

- 4.66 The Planning (General Development) Order (NI) 1993 (the GDO) allows certain, often minor, non-contentious types of development to proceed without the need for a planning application as planning permission is deemed to be granted. In the context of creating a more proportionate planning system, the Department wishes to examine the scope for extending permitted development rights with regard to certain householder, minor and non-householder developments, including those associated with small scale renewable energy technologies.
- 4.67 Applications for planning permission for minor developments, particularly from householders, form a large proportion of the planning applications within the planning system. In 2007/08 applications for domestic extensions/alterations were 30% of all applications received. 98% of applications for domestic extensions/alterations decided in 2007/08 were approved. There are also new forms of development, such as that associated with the use of small scale renewable energy technologies, which have the potential to add to planning application numbers in the future. While the processing of these applications is relatively straightforward (provided they have minimal impact upon neighbours and the local environment) the resources used to process them could be re-deployed elsewhere to improve overall service delivery. In the context of reform, the Department is examining three inter-related strands with regard to permitted development.

Householder and Minor Development

- 4.68 Permitted development rights currently allow various extensions and alterations to dwelling houses, as well as developments within their curtilages, to be carried out without applying for planning permission. Similarly, various minor forms of development are permitted on the basis that their scale and nature is such that they would be granted planning permission if an application were required. Development associated with dwelling houses is commonly referred to as 'householder development'.

Other (non-householder) Development

- 4.69 Permitted development rights are also given for certain other forms of development, including, for example, industrial and warehouse development, temporary buildings and uses, agricultural buildings and operations, and certain development by statutory undertakers.
- 4.70 The Department has engaged consultants to advise it on the scope for widening existing householder, minor and non-householder permitted development rights, together with a consideration of the scope for introducing additional categories of permitted development, with

the intention of reducing the number of minor applications in the system, while protecting the interests of neighbours, the wider community and the environment¹⁵. This work will include relevant screening under Section 75. It is also possible, however, that there may be instances where development that is currently permitted would in future require specific planning approval: for example, developments considered to have more than a low impact on the wider neighbourhood and/or street scene. We expect to consult on the outcome of this work in 2009 and, therefore, no consultation questions have been asked in this paper.

Development Associated with Small Scale Renewable Energy Generation

- 4.71 One of the key challenges facing us today is climate change. One way of addressing the impact of climate change is to maximise the use of energy from renewable energy sources that are continuously replenished by nature (e.g. the wind, the sun, moving water, heat extracted from the air, ground and water (geothermal energy), and biomass (wood, biodegradable waste and energy crops)).
- 4.72 At a policy level, the Department has published a draft Planning Policy Statement 18 (PPS) on Renewable Energy as part of its PPS programme. More directly, however, the Department has been working on the provision of a simplified regulatory regime for small scale renewable energy development that features easily understood permitted development rights. The Department believes that a simplified regulatory regime may assist in addressing the impacts of climate change by encouraging the uptake of renewable energy technologies.
- 4.73 The work on small scale renewable energy generation permitted development has two strands: a) domestic microgeneration associated with the energy needs of dwelling houses, and b) non-domestic microgeneration, primarily associated with commercial, industrial, agricultural and public sector energy needs.

a) Domestic Small Scale Renewable Energy Generation (Householder Microgeneration)

- 4.74 The Department consulted on its proposals for domestic microgeneration permitted development rights in 2007¹⁶. The Department proposed that, broadly, all forms of householder microgeneration should be permitted without the need to apply for planning permission, subject to certain limitations and conditions related to visual amenity, noise and impacts beyond the host property. Reaction to the consultation paper was positive with strong support for the wider use of

¹⁵ The Department's examination of Part 1 and 2 permitted development rights will exclude permitted development rights for satellite dishes and other antennas which have already been relaxed following a review in 2003.

¹⁶ 'Microgeneration Permitted Development Rights' (January 2007).

renewable energy and a simplified regulatory regime of permitted development rights. There were, however, some differences of opinion as to the types of renewable technology that should be permitted and the conditions and limitations that should be imposed, particularly in relation to noise associated with wind turbines and heat pumps, which the Department is still considering.

4.75 Following consideration of the views expressed, the Department expects to consult in 2009 on proposed changes to the GDO that will make it easier for householders, if they so wish, to meet a significant portion of their energy needs from renewable sources.

b) Non-domestic Small Scale Renewable Energy Generation

4.76 The Department also proposes to extend permitted development for small scale renewable energy generation to non-residential land uses, including commercial, industrial, agricultural and public sector development. Consultants have been engaged to advise the Department on how best this might be achieved and we expect to consult on the outcome of that work in 2009. This work will include relevant screening under Section 75.

Legislation

4.77 The current GDO, which covers both permitted development and certain procedural and administrative aspects of the planning process, was last consolidated in 1993 and has been subject to many amendments since that date, which are not always evident either to those who regularly use it or those who find it necessary to refer to it infrequently. The reviews included in this planning reform will lead in due course to replacing much of the current GDO and it seems sensible, as part of the simplification of procedures and permitted development rights, to make the legislation more accessible and usable. The Department is therefore considering separating the GDO into two Orders, one focused on procedural elements of development management and the other concentrating on permitted development rights.

The Role of Consultee Bodies in the Planning Application Process

4.78 Consultation with bodies who have an expertise in certain topics such as environmental protection, health and safety, is an essential feature of the planning application process. The planning authority may not have the necessary in-house expertise to decide on an application's merits and some key consultees, e.g. Northern Ireland Environment Agency, Roads Service and Water NI, contribute to the planning decision-making process as part of their own statutory obligations with regard to the environment, road safety, water quality and so on. In addition, consultation is an important part of demonstrating the openness, transparency and the democratic nature of the planning system.

- 4.79 Currently there is a legislative duty on the Department to consult district councils and, where appropriate, other bodies such as the Health and Safety Executive, the Historic Buildings Council, the Historic Monuments Council and the Fire Authority for Northern Ireland, before determining an application for planning permission, approval or consent (these are known as ‘statutory consultees’). The Department, however, may also consult a wide range of other government departments, agencies and public bodies. While the Department would consider consultation with these key consultees to be an essential part of the planning process, it is currently under no statutory obligation to do so.
- 4.80 The Department has previously acknowledged a widespread concern that the current consultation process contributes significantly to the delays in the determination of planning permissions or consents and has been working with its key consultees to improve response times. The reform agenda and the impending transfer of planning functions under RPA has led the Department to examine the arrangements under which district councils (or the Department in the case of regionally significant or called-in applications) will have to consult other bodies and the process by which these bodies will have to respond.

Proposals

- 4.81 The Department proposes, post-RPA implementation:
- to extend the list of statutory consultees to ensure that planning authorities consult relevant bodies and to introduce categories of development, linked to the development hierarchy, that require such consultation (including pre-application consultation). This would mirror the system currently in use within England, Wales, Scotland and the Republic of Ireland;
 - to introduce a statutory obligation on the statutory consultee to reply within a specified timeframe in order to ensure a timely response. This would reflect the system currently used in England where consultees must respond within 21 days, or such other period as may be agreed in writing between the consultee and planning authority. This obligation would also apply to district councils consulted on regionally significant applications to be determined by the Department (see paragraph 4.46); and
 - to require the consultees to complete an annual monitoring report which would detail their performance over the previous 12 months.

Question 49

Do you agree that, post-RPA:

- a) the list of statutory consultees should be extended; and**

- b) **categories of development, linked to the development hierarchy, that require consultation (including pre-application consultation) before applications are determined by the planning authority, should be introduced?**

Question 50

Do you agree, post-RPA, that statutory consultees should be required to respond to the planning authority within a specified timeframe?

Question 51

If so, what do you consider the specified timeframe should be?

Enhanced Development Management in Conservation Areas, Areas of Townscape or Village Character

- 4.82 Many of our cities, towns and villages contain areas which exhibit a distinct character and intrinsic qualities, often based on their historic built form or layout. Some of these have merited statutory designation by the Department as conservation areas by virtue of their special architectural or historic interest. For others, recognition as areas of townscape or village character (ATCs/AVCs) has been judged to be more appropriate. Great importance is attached to the protection of the existing character and appearance of such areas.
- 4.83 At present, anyone wishing to demolish an unlisted building in a conservation area must first apply to the Department for consent to do so: this is known as ‘conservation area consent’ and it is a criminal offence to carry out such work without consent. Similarly, anyone wishing to demolish an unlisted building in an ATC or AVC must apply to the Department for planning permission: failure to do so is a breach of planning control and may be subject to enforcement action by the Department.
- 4.84 However, the present legislation does not cover the partial demolition of an unlisted building. This came to light as a result of the Shimizu judgement (Shimizu (UK) Ltd v Westminster City Council 1997). In brief, in the Shimizu case the House of Lords considered that works for the demolition of an unlisted building in a conservation area must involve the total or substantial destruction of the building concerned. Therefore, in conservation areas, the demolition of part of an unlisted building, which might previously have been considered to require conservation area consent, no longer needs such consent, i.e. partial demolition of buildings in conservation areas is not subject to conservation control. This ruling has a wider impact in Northern Ireland than the

rest of the UK, in that it means that the partial demolition of an unlisted building, not only in a conservation area but also in an ATC or AVC, may not be considered as demolition for the purposes of the 1991 Order.

- 4.85 The Department considers that, in certain cases, the demolition of any part of an unlisted building in a conservation area/ATC/AVC may have a detrimental effect not only on the character of the building but also on the overall character of the conservation area/ATC/AVC.

Proposal

- 4.86 As the Department is committed to the protection of the existing character and appearance of conservation areas, ATCs and AVCs we consider that this issue should be addressed and we propose to amend the current legislation to clarify that conservation area consent/planning permission is required of anyone wishing to partially demolish any part of an unlisted building in a conservation area/ATC/AVC.

Question 52

Do you agree that the existing legislation should be amended and clarified to ensure that anyone wishing to demolish any part of an unlisted building in a conservation area/ATC/AVC requires conservation area consent or planning permission?

- 4.87 A conservation area is an area designated as such under Article 50 of the Planning (Northern Ireland) Order 1991, which states that, 'The Department may designate areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance'. Article 50(5) of the 1991 Order requires that, 'Where any area is for the time being designated as a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance'.
- 4.88 This is the prime consideration for the Department in the exercise of planning functions within conservation areas. Planning Policy Statement 6 (Planning, Archaeology and the Built Heritage) details the Department's policy on conservation areas. There will be a presumption against the grant of planning permission or conservation area consent where development proposals would conflict with this requirement, although in exceptional cases this presumption may be overridden in favour of development which is desirable on the ground of some other public interest. The desirability of preserving or enhancing a conservation area is also considered to be a material consideration in assessing proposals for development beyond its boundaries which would,

however, affect its setting or views into or out of the area.

- 4.89 The Department's presumption that development should preserve or enhance a conservation area was affected by the outcome of the High Court case of *South Lakeland District Council v Secretary of State for the Environment and Carlisle Diocesan Parsonages Board* [1992] 2 WLR 204, which held that local planning authorities could not insist that developments are beneficial to conservation areas, merely that they do not harm them.
- 4.90 The Department does not wish to stifle development in conservation areas. The emphasis will be on the careful control and positive management of change, to enable the area to remain alive and prosperous, but at the same time to ensure that any new development accords with the area's special architectural or historic interest. Designation as a conservation area puts an onus on prospective developers to produce a very high standard of design, which respects or enhances the particular qualities of the area in question.
- 4.91 As part of its commitment to protecting our built heritage the Department wishes to clearly set out the duties of the planning authority when exercising its planning functions with regard to conservation areas. The Department is considering introducing a requirement that planning authorities pay special attention to the desirability of enhancing the character or appearance of a conservation area where there is an opportunity to do so. Where there is no opportunity for enhancement then the planning authority must give special regard to preserving the area's character or appearance.

Question 53

Do you agree that the planning authority should be able to require that, where possible, proposed development should enhance the character of a conservation area?

Duration of Planning Permission and Consent

- 4.92 Planning permissions and consents are normally issued with a condition requiring development to commence within a specified number of years. This is usually five years from the grant of permission or consent. The Department, however, can provide for a longer or shorter period if it is considered appropriate for the development approved.
- 4.93 Once the time limit for commencement of development has expired, it is not possible for development to begin under that permission; a further application for planning permission or consent must be made. The current timescales for commencement can, however, lead to

developers ‘land banking’ approvals, resulting in uncertainty in the development of an area and effectively preventing the use of developable land for other purposes. The five-year duration of permissions and consents can also lead to delays in changes in planning policy taking effect on the ground as this only occurs through decisions on new development proposals.

Proposal

- 4.94 To encourage approved development to be undertaken more speedily and ensure new policies are delivered more quickly, it is proposed (in line with elsewhere in the UK) to reduce the normal default duration of planning permission, listed building and conservation area consents from five years to three. The planning authority, however, would retain the power to shorten or extend this period depending on the circumstances of the application. For instance, shorter time frames may be appropriate for temporary uses, while the lead-in times for larger development, or sites raising technical issues, may suggest longer timeframes.
- 4.95 In the case of outline planning permissions, the Department proposes to remove the condition requiring development to commence no later than five years from the date on which permission was granted. However, the requirement to submit applications for approval of reserved matters within three years of the grant of outline approval would be retained, as would the requirement for development to commence within two years from the date on which reserved matters are finally approved. If introduced, the new arrangements would not impact on existing approvals but would only apply to applications from the commencement of these provisions.
- 4.96 The Department considered a similar proposal as part of the Reforming Planning consultation in 2004 and, although favourable comment was received, the Department subsequently concluded not to introduce this measure. At the time the Department was concerned about the resource implications of an increase in application numbers and also wished to avoid the possibility of more ‘technical starts’ to development to comply with the commencement date, following which development would cease. However, the Department considers the proposal should be revisited in the wider context of the current reform agenda and the particular emphasis on improved efficiency of processing, accelerating the planning system and the focus on development management.

Question 54

Do you agree that the normal duration of planning permission and consent should be reduced from five to three years?

Making Non-material Changes to Planning Permission

- 4.97 When development is being carried out in accordance with planning permission, minor changes to the original proposal may become necessary: for example, to comply with new building regulations or changes associated with the physical nature of the site which were not anticipated. Such changes may be particularly common in complex large scale developments. In many cases, the minor changes required will not significantly change the scheme that was originally granted planning permission, have no or very small effects on public amenity and are, in effect, ‘non-material’. Nevertheless, the change may require a new planning application.
- 4.98 At present, in the absence of specific legislative powers, the Department seeks by administrative means to minimise the impact of minor changes to planning permission upon the Planning Service, the applicant and others. Relying on case law, the Department agrees changes to the development proposed with the person with the interest in the land to which the permission relates and where the proposed change is deemed to be non-material, on a case by case basis. Changes may be so small that they can be discounted from the definition of development requiring planning permission, or the transgression of a condition or other planning restriction so minimal as not to constitute a breach of control, or there may be minor amendments to approved plans. It is considered sensible practice for a planning officer to decide whether a variation from an approved plan is material or not. Planning law does not define what material considerations are and, consequently, they have to be derived from a number of sources, including strategic planning guidance, regional policy documents, Ministerial statements, development plans etc.
- 4.99 There is no statutory obligation upon the Department to engage in this administrative process, nor any statutory procedure with which the Department is required to comply. To date, the process has not given rise to any known challenge or issues in Northern Ireland. However, legislation has been in place in Scotland since 1972¹⁷ which gives planning authorities power to vary any planning permission granted by them, on the request of the grantee or of a person acting with his consent, if they consider that the variation sought is not material. In England a similar provision has been included (section 190 of the Planning Act 2008) to provide, at the request of the applicant, discretion for the local planning authority to decide whether an amendment to development that has planning permission is so minor, and the variation sought is not material, that a further planning application is not required. In England this includes a specific power to impose new conditions or remove or alter existing conditions.

¹⁷

Section 31A of the Town and Country Planning (Scotland) Act 1972 and section 46 of the Local Government and Planning (Scotland) Act 1982.

4.100 The decision in England to make explicit legislative provision follows a House of Lords¹⁸ ruling which raised uncertainty as to whether local planning authorities are able to approve minor amendments to approved schemes without the necessity for a new planning application. Consequently, it was considered that a decision by a local planning authority to informally approve plans could be subject to a successful challenge by a third party.

Proposal

4.101 In light of this ruling the Department is proposing to bring forward specific legislative provisions to enable non-material changes to planning permissions to be made. Specifically, these provisions could:

- enable the planning authority to change any planning permission where it is satisfied that the change is not material;
- require the planning authority to have regard to the effect of the change, together with any previous changes on the original planning permission;
- enable the planning authority to impose new conditions and remove or alter existing conditions;
- make the power available only on an application by a person with an interest in the land to which the permission relates;
- enable the Department to prescribe the form and manner of application and consultation and publicity requirements; and
- require such applications etc. to be kept in the planning register.

4.102 The Department considers that such legislative provisions will place beyond doubt the ability of the planning authority to approve non-material changes to an existing planning permission, while enhancing the openness, transparency and democratic nature of the planning system. There is also the potential to remove planning applications from the system.

Question 55

Do you agree that a statutory provision should be introduced to allow minor amendments to be made to a planning permission?

Question 56

Do you have any comments on the details of such a provision as outlined at

¹⁸ Sage -v- Secretary of State for the Environment, Transport and the Regions 2003.

4.101?

Correction of Errors in Decision Notices

- 4.103 Provision is made in Part III of the Planning Reform (Northern Ireland) Order 2006 for the correction of errors in decision documents, including omissions. Under Article 17 of the Order the Department must seek the written consent of the applicant/landowner before an error in a planning decision document can be rectified. Article 20(3), of the same Order, defines a correctable error as an error which is contained in any part of the decision document which records the decision but which is not part of any reasons given for the decision.
- 4.104 While Article 17 has yet to be commenced in Northern Ireland, experience in England with similar legislation¹⁹ intended to amend correctible errors in appeal decisions has indicated that the requirement to obtain unconditional written consent from either the applicant or the landowner can pose problems. For example, obtaining consent can prove problematic if land ownership changes after the appeal is submitted so that it becomes difficult to identify the current landowner. Alternatively, consent may not be forthcoming if it is perceived that the error is to the applicant's advantage. Consequently, new English provisions have been provided in the Planning Act 2008 that will remove the need to obtain consent in these cases.

Proposal

- 4.105 The Department proposes to change the current legislation relating to the correction of errors in planning decision documents to allow the planning authority to correct errors in planning decision documents without the consent of the applicant/landowner.

Question 57

Would you be in favour of enabling the planning authority to correct errors in its planning decision documents without the consent of the landowner or applicant?

¹⁹ Section 56 of the Planning and Compulsory Purchase Act 2004 c.5.

Chapter 5 - Appeals and Third Party Appeals

The right of an applicant to appeal a planning decision is a key element of a democratic and accountable planning system. Some of the existing appeal processes are disproportionately complex for the type of appeal, while some administrative processes are not as efficient as they could be. This chapter proposes some fundamental changes to how the appeal system operates as well as changes to existing procedures and also considers the case for and against the introduction of the right of third party appeals (i.e. an appeal by someone other than the applicant against a planning decision or conditions imposed by a decision).

Introduction

- 5.1 In Northern Ireland the planning appeals system is delivered by the Planning Appeals Commission (PAC), an independent appellate body established under statute to decide a wide range of appeals and to report on various matters under planning and other legislation. The Commission (which is sponsored by the Office of the First and Deputy First Ministers) is not part of the DOE or any other government department.
- 5.2 The number of appeals received by the PAC has, in recent years, risen from 762 in 2004/05 before peaking at 2765 in 2006/07. It has since dropped to 1493 in 2007/08 and, more recently, to 515 in 2008/09²⁰. In keeping with the aims of the reform agenda the following legislative proposals seek to improve the planning appeals system by tackling delaying factors and providing an appeals system which is more proportionate to the type and complexity of each appeal. The proposals are informed by similar proposed changes to the appeals systems in the rest of the UK.

Reducing the Time Limit for Appeals

- 5.3 Where a planning permission or consent application is refused, or granted subject to conditions, the applicant may appeal the decision to the PAC. The current time limit within which appeals²¹ must be made is six months. For non-determination appeals²² the six-month period starts from the

²⁰ PAC Chief Commissioner's Annual Report April 2008 to March 2009.

²¹ Appeals under Article 32 of the 1991 Order for planning permission or against conditions attached to a planning permission; Article 33 of the 1991 Order (non-determination appeals); plus tree preservation order consent, listed building consent, conservation area consent, hazardous substances consent, and advertising consent appeals.

²² Currently the statutory period after which the applicant has the right of appeal on the grounds of non-determination is 2 months from the submission of a valid application (extended to 16 weeks where an environmental statement is required).

date the Department should have given its decision. The six-month time limit has not changed in over 30 years, is unnecessarily long and can lead to the appellant waiting until the end of the period before submitting an appeal, creating uncertainty among objectors and for the Department.

Proposal

5.4 The Department proposes to reduce the time limit for lodging planning appeals to two months. This would speed up the appeals system, ensuring that all appeals are submitted to the PAC in a prompt fashion whilst still allowing the appellant sufficient time to decide whether to appeal and submit the relevant appeal application to the PAC. While the Department appreciates this may lead to an initial increase in the number of appeals received, it is envisaged this will level out over time. Coupled with proposals to limit the introduction of new evidence at appeal (see paragraphs 5.8 to 5.10 below) it is hoped this will encourage applicants to engage in productive negotiations with the planning authority and provide it with all relevant material prior to the authority reaching its decision.

Question 58

- a) Do you agree that the time limit to submit appeals should be reduced?**
- b) If so, what do you think the time limit should be reduced to – for example, 4, 3 or 2 months?**

Determining the Appeal Method

5.5 Appeals are processed either by written representation (with or without an accompanied site visit) or by a formal or informal hearing. The current system allows the appellant and the Department to request the method they prefer. However, while written representations are quicker and less costly to all concerned, appellants often choose a formal or informal hearing, even for appeals which could clearly be addressed through written representation. In line with the principle of proportionality, the Department wants to ensure that the appeal procedure used is that which is best matched to the complexity of the subject matter.

Proposal

5.6 The Department is proposing to provide the PAC with the statutory powers to enable it to decide the appeal method based largely on the complexity of the appeal. This would support the PAC's current efforts in guiding appellants toward the most suitable method for processing their appeal and help to speed up the process. This proposal would mean the removal of the automatic right to appear before, and to be heard at, a hearing. However, appeals are decided on the basis of the

planning arguments, not by the method by which they are presented.

- 5.7 This proposal would require the PAC to apply published criteria when determining the most appropriate appeal method and it would have to consider the applicant's preferred method together with any supporting arguments. The Commission would also have the option to change to a more appropriate method if new circumstances made it necessary.

Question 59

Do you agree:

a) that the PAC should be given the powers that would allow it to determine the most appropriate method for processing the appeal; or

b) that appellants should be allowed to choose the appeal method?

Restricting the Introduction of New Material at an Appeal

- 5.8 There are cases where an appeal is made and the proposed scheme is revised during the course of the appeal. This practice uses the appeal process to progress amendments or alternatives to a scheme which should have been submitted as a new or amended planning application to the planning authority. This can leave the Department and third parties at a disadvantage in having to respond at short notice to the revised proposals.
- 5.9 English and Scottish Ministers have moved to counter this by proposing that appeals will only be determined on the basis of the material that was in front of the local planning authority when it made its original decision. Scotland has already made changes to primary legislation (section 19(2) of the Planning etc. (Scotland) Act 2006) to achieve this, while the Department understands England is currently considering how to take this forward.

Proposal

- 5.10 The Department believes there are clear merits in this approach as it would provide greater certainty for objectors and third parties. The Department therefore proposes to provide in statute that parties to appeals may not raise matters that were not in front of the planning authority when it made its original decision. This would be subject to two important caveats: the appeal body would still be required to have regard to the development plan and any other material consideration in reaching its decision; and parties to the appeal would be allowed to submit additional material if they could demonstrate that this could not have been submitted earlier.

Question 60

Do you agree that parties to appeals should not be allowed to introduce new material beyond that which was before the planning authority when it made its original decision?

Linking Retrospective Planning Applications and Enforcement Notice Appeals

5.11 Where development has been carried out without planning permission, or has taken place without complying with any condition or limitation subject to which planning permission has been granted, the Department may issue an enforcement notice specifying what remedial steps need to be taken. The person upon whom the notice is served has 28 days to lodge an appeal against the notice with the PAC. Once an appeal is made against an enforcement notice the appellant is deemed to have made an application for planning permission for the development in question. This application is duly determined by the PAC. However, the person upon whom the notice is served can also submit a parallel retrospective planning application to the Department. In essence this means that the enforcement notice cannot take effect until the parallel planning application has been determined by the Department. If the Department issues a refusal decision the applicant has a further six months to appeal to the PAC. This stalling action means that the breach of planning can continue unabated for a considerable length of time.

Proposal

5.12 The Department proposes to address this issue by extending the power to decline to determine a parallel planning application to circumstances where the same development is the subject of a 'deemed application' determination by the PAC, on foot of an appeal against an enforcement notice. This will prevent the appeal process from being abused and used as a stalling tactic.

Question 61

Do you agree with the proposal that the planning authority should be able to refuse to consider a planning application where a 'deemed application' associated with an appeal against an enforcement notice is pending?

Power to Decline Repeat Applications

5.13 Currently the Department has the power²³ to decline to determine any planning application

²³ Under Article 25A of the 1991 Planning Order.

deemed to be the same or substantially the same as an application refused within the preceding two years for the same development. However, this power does not extend to repeat applications that are submitted after a 'deemed application' (see paragraph 5.11) has been refused by the PAC. The Department views this as a loophole.

Proposal

5.14 The Department is proposing to introduce a power to decline repeat applications where, within the last two years, the PAC has refused a similar 'deemed application' arising from an enforcement notice appeal.

Question 62

Do you agree that the planning authority should have the power to decline repeat applications where, within the last two years, the PAC has refused a similar deemed application?

Time for Certificate of Lawful Use or Development Appeals

5.15 An applicant can apply to the Department for a Certificate of Lawful Use or Development to establish whether the existing (or proposed) use or development of land is lawful for planning purposes. If the Department refuses a certificate or fails to give a decision on an application for a certificate within a period of two months, or an extended period agreed with the applicant, the applicant may submit a planning application in respect of the development, or appeal the decision to the PAC. Unlike other forms of appeal there is currently no time limit for making such an appeal.

Proposal

5.16 To bring these appeals into line with other appeals the Department proposes to introduce legislation that would introduce a time limit of two months for lodging a certificate of lawful use or development appeal.

Question 63

Do you agree that a time limit of 2 months should be introduced for certificate of lawful use or development appeals?

Award of Costs

5.17 Currently, parties to appeal proceedings in GB can apply for costs to be awarded against another party in the appeal if they believe that they have been left out of pocket by that other party's

unreasonable behaviour. Such behaviour could result in a hearing being adjourned, unnecessarily prolonged, or cancelled, wasting resources and causing unnecessary expense to the aggrieved party. Similar behaviour also impacts upon the Northern Ireland appeals system. Unreasonable behaviour is defined in GB guidance and may include such things as:-

- the local planning authority withdrawing one of its reasons for refusing planning permission or conceding the grounds for an appeal once the date for a hearing has been fixed;
- the appellant withdrawing the appeal once the hearing date is fixed without being able to show that there has been a material change of circumstances; or
- the appellant failing to show or be represented at a hearing without good reason.

Proposal

5.18 The Department proposes to introduce a power that would allow the PAC to award costs where a party has been put to unnecessary expense and where the PAC has established that the other party has acted unreasonably. This would apply to parties involved in appeals that use both the written representation route or formal/informal hearings.

Question 64

Do you agree that the PAC should be given a power to award costs where it is established that one of the parties to an appeal has acted unreasonably and put another party to unnecessary expense?

Local Member Review Bodies

5.19 Following the transfer of planning powers to the new district councils, and in keeping with strengthening local accountability, the Department is seeking views on providing for certain minor appeals to be determined within each district council area by the council (or a committee of the council) to be known as a local member review body (LMRB). Such an approach could reduce the PAC caseload, freeing up resources for more complex, contentious cases.

5.20 In such a scenario, each council would specify a number of minor planning application types which would be determined by planning officers acting under the council's scheme of officer delegation (see 4.62 and 4.64 in chapter 4). This could include, for example, applications for householder developments, new shop fronts or small changes of use. Applicants who disagree with the decision would be able to request a review by the LMRB. This would replace the existing right of appeal to the PAC.

5.21 Each LMRB, consisting of an agreed number of elected councillors, would have the power to

uphold, reverse or vary any decision which is subject to their review. To counter any perceptions of internal bias it is possible LMRBs could be established on a joint authority basis with other district councils. If the appellant considered the LMRB had not applied the law properly or had treated them unfairly, they would be able to challenge the LMRB's decision in the High Court.

- 5.22 We are seeking views on whether there is support for the Department to take powers enabling local member review bodies to be set up by district councils. It is envisaged that, if taken, such powers would not be commenced immediately the new councils are formed in 2011.

Question 65

Do you think the new district councils should be able to establish local member review bodies to determine certain local planning appeals?

Question 66

If so, what types of applications should this apply to?

Third Party Planning Appeals

- 5.23 Where an applicant is unhappy about the refusal of planning permission, or with any conditions attached to an approval, the applicant may appeal to the PAC. There is no equivalent right of appeal for third parties who may have opposed a development that receives planning permission or who may be unhappy about the conditions attached to that permission.
- 5.24 The issue of whether there should be provision for third party appeals in the Northern Ireland planning system has been considered on many occasions from the early 1980s forward. More recently, since 2000 the Department has engaged in a detailed examination of the case for third party appeals, culminating in a regulatory impact assessment (RIA) completed in 2004²⁴. In light of that RIA, Angela Smith MP decided, under direct rule, that the issue was one for a returning Northern Ireland administration.
- 5.25 In view of previous and continued interest in third party rights of appeal, it was considered appropriate to re-examine the issue when preparing the planning reform programme.

The Case for Third Party Appeals

- 5.26 The RIA summarised a number of potential benefits of introducing third party appeals, including:

²⁴ RIA available at www.planningni.gov.uk/Corporate_Services/Publications.

- equity/natural justice vis-à-vis the first party right of appeal;
- enhanced third party participation in the planning system;
- more accessible/relevant than judicial review – a reduction in the number of judicial reviews;
- enhanced decision-making through the availability and exercise of the third party appeal process;
- an incentive to good practice among applicants by promoting greater consultation with third parties before applications are submitted;
- swifter decisions in the knowledge that third party appeals would be available; and
- increased public confidence in the planning system.

5.27 Some supporters of third party appeals have also expressed the view that when councils become the primary decision-makers in relation to planning applications, the need for third party appeals would be reinforced, as there would be potential for greater inconsistency of decision-making than exists under the current unitary planning system. They were also concerned about the level of professional planning expertise that would be available to councils and expressed concern that planning decisions would be more open to greater ‘non-planning/political’ influence, as well as to the possibility of corruption.

5.28 The RIA was unable, however, to quantify the potential benefits of introducing third party appeals as in many cases the benefits were based upon the perceptions of consultees and were difficult to validate one way or the other.

Potential Implications of Third Party Appeals

5.29 The RIA was able to make an assessment of the cost and impacts third party appeals could have upon the planning system. This was related to experience in the Republic of Ireland and based on model third party appeals systems where reasonable assumptions were made about key features. From this, there are definite conclusions that can be drawn if third party appeals were to be introduced:

- there would be a net cost to the public purse;
- there would be a time lag in the final decision on all planning applications to enable third parties time to appeal;
- there would be further time required to reach a final decision on those planning applications which are subject to a third party appeal;
- there would be a need for additional staff for both planning authorities and the Planning Appeals Commission;

- there would be greater uncertainty as to the outcome of the planning process; and
- there could be, as a consequence of all these, a potentially adverse impact upon investment and the economy.

5.30 As regards a specific need for third party appeals when there are local planning authorities, the transfer of planning functions to councils will restore local democracy to the Northern Ireland planning system. Councils responsible for decision-making will take account of the views of local people on planning matters before decisions are made and justify their decisions to their electorate. There will be greater local ownership of plans and policies produced locally and strengthened opportunities for third party involvement arising from planning reforms. In addition, the proposed planning system will be designed with checks and balances, both at local level through appropriate governance regimes designed as part of the new local government structures, and at regional level through arrangements for oversight of the planning system by the Department, which will address concerns about the integrity of local planning authority decision-making. The planning system in Northern Ireland post-RPA will also have the same level of expertise available to it that it does now, as staff will transfer with the functions.

5.31 The Department's policy has also been to 'front load' the planning system with opportunities for third party engagement and to extend the openness and transparency of planning processes. These opportunities are already wide-ranging and will be further enhanced by the planning reform proposals in this paper, particularly in relation to the proposal to introduce a statutory requirement for pre-application consultation between prospective applicants and communities on applications for regionally significant and major development.

Conclusion

5.32 In light of its assessment of the likely impacts of the introduction of third party appeals upon the planning system and its objectives for planning reform, which include more proportionate processes, a 'front loaded' planning system and greater speed and efficiency in decision making, the Department, at this stage, is not proposing to make provision for third party appeals in the current package of reforms to be brought forward by 2011. However, it is keen to take this opportunity to obtain the views of all stakeholders on this issue and will fully consider those views before a final decision is reached.

Question 67

Should provision for third party appeals be an integral part of the NI planning system or not? Please outline the reasons for your support or opposition.

Question 68

If you do support the introduction of some form of third party appeals, do you think it should an unlimited right of appeal, available to anyone in all circumstances or should it be restricted?

Question 69

If you think it should be a restricted right of appeal, to what type of proposals or on what basis/circumstances do you think it should be made available?

Chapter 6 - Enforcement and Criminalisation of Development Without Planning Permission

As part of the reform programme the Department is reviewing existing enforcement provisions to ensure they are sufficiently robust, while also considering whether any new proposals, similar to those recently introduced in Scotland, should be developed for Northern Ireland. This chapter also considers the arguments for and against introducing a criminal offence for commencing development without planning permission.

Introduction

- 6.1 Currently the Department is responsible for carrying out enforcement as part of its development control function. The Department's key objectives for planning enforcement are to bring unauthorised development under control; remedy any undesirable effects of unauthorised development, including, where necessary, the removal or cessation of unacceptable development; and take legal action, where appropriate, against those who ignore or flout planning legislation. All enforcement functions and responsibilities will transfer from the Department to district councils when the Review of Public Administration (RPA) is implemented.
- 6.2 All alleged breaches of planning control are investigated. While the Department seeks to remedy breaches of planning control, where possible, if an individual fails to comply the Department may seek to prosecute the offender through the Courts. The Department's enforcement powers are discretionary and enforcement action is taken having regard to the development plan and any other material considerations.
- 6.3 The Department continues to use and consolidate its existing enforcement powers (annex 7 contains a list of the most recently introduced powers²⁵) which, in general, are wide-ranging and for the most part now parallel those in Great Britain. However, in addition to reviewing the provisions to ensure they are sufficiently robust, this chapter also considers whether new proposals, similar to those recently introduced in Scotland, should be developed for Northern Ireland.

²⁵ Contained in the Planning (Amendment) (Northern Ireland) Order 2003 and the Planning (Reform) (Northern Ireland) Order 2006.

Multiple Fees for Retrospective Planning Applications

6.4 The Department considers that, generally, there is no good reason why applications for planning permission should not be made prior to a development commencing. It is the responsibility of anyone undertaking development to familiarise themselves with the relevant regulatory controls, which are not confined to planning, and to comply with them. Although planning law allows retrospective applications, this facility can be, and is, abused when it should be the exception, not the norm.

Proposal

6.5 As part of a wider review of the funding of the planning regime, and as a means of discouraging development without planning permission, the Department is again considering charging a greater or multiple of the normal fee for retrospective planning applications however they might arise, including as a result of enforcement action or following an appeal against an enforcement notice. This would be a premium fee to deter commencement of development prior to submitting a planning/consent application and as a means of encouraging developers to seek relevant permission/consent at the appropriate time.

Question 70

Do you agree that a premium fee should be charged for retrospective planning applications and, if so, what multiple of the normal planning fee do you think it should be?

Notification of Initiation of Development and Completion of Development

6.6 New provisions have recently been introduced into Scottish legislation relating to Notification of Initiation of Development and Completion of Development. These provisions require developers to submit a start notice to the planning authority notifying it of their intention to commence development and that they have met any pre-conditions. The developer is further required to notify the planning authority when certain agreed stages of the development are completed, and again when the entire development is complete. This requirement for self-monitoring enables the planning authority to monitor compliance with conditions throughout the development process and to identify and address any breaches of planning control (where it so wishes) at an earlier stage.

6.7 The Scottish government considers the advantages of such powers are that they would give more control to the planning authority, act as a deterrent against breaches of planning control and give

more confidence to the public that arrangements are in place to allow monitoring of ongoing development. The Scottish government also considers this measure encourages proactive enforcement as a means of dealing with breaches of planning control quickly and efficiently, while placing a minimal requirement on the development industry to submit the relevant notifications. Although these recent Scottish provisions have been introduced by primary legislation, they have yet to be commenced and it is the Department's view that the practicalities and outcomes of the Scottish experience would need to be examined carefully before reaching conclusions as to the appropriateness of similar provisions for Northern Ireland. In particular, the Department would wish to consider the resource implications and to explore the potential for closer links with the building control notification system, and any benefits that might come from this, particularly as both functions (not just building control) will be the responsibility of district councils post-RPA.

Question 71

Do you think the Department should consider developing firm proposals for introducing powers similar to those in Scotland, requiring developers to notify the planning authority when they commence development and complete agreed stages?

Fixed Penalty Notices

- 6.8 The Planning etc. (Scotland) Act 2006 introduced powers for planning authorities to issue Fixed Penalty Notices, giving a person the opportunity to pay a penalty as an alternative to prosecution in cases where they are in breach of an Enforcement Notice or fail to comply with a Breach of Condition Notice, subject to certain conditions being met. The Scottish government considers a key advantage is that it provides an alternative to the costly and potentially lengthy process of seeking a prosecution through the Courts.
- 6.9 The introduction of such provisions in Northern Ireland, however, requires careful consideration: for example, how would the penalties be set and what criteria would be used when deciding when a Fixed Penalty Notice would issue as opposed to proceeding to prosecution. The Scottish approach simply sets out the level of fixed penalty²⁶ in respect of breach of an Enforcement

²⁶ The Scottish Government proposes that the level of the penalty imposed by a Fixed Penalty Notice should be set at £2,000 for a Fixed Penalty Notice issued in respect of failure to comply with the requirements of an Enforcement Notice and £300 in respect of a Breach of Condition Notice. There will be a reduction of 25% where a fixed penalty is paid promptly. This level of fixed penalty would be in keeping with established legal precedents in respect of Fixed Penalty Notices issued under other legislation where the maximum fine does not exceed 30% of the maximum that can be imposed on summary conviction in court.

Notice or Breach of Condition Notice. A single Fixed Penalty Notice may be issued in respect of any breach. As with the other provisions referred to above, the Scottish proposals on Fixed Penalty Notices have yet to be commenced and the Department would wish to examine the outcomes of the Scottish experience before reaching any conclusions on the appropriateness of similar provisions for Northern Ireland.

Question 72

Do you think the Department should consider developing firm proposals for introducing Fixed Penalty Notice powers similar to those in Scotland?

Criminalisation of Development Without Planning Permission

- 6.10 There are already a number of instances where it is an offence to commence development without the Department's consent, e.g. the unauthorised demolition, alteration or extension of a listed building, or the demolition of an unlisted building in a conservation area. These offences arise from the immediate breach of planning law and are known as 'immediate offences' (see those asterisked in annex 8 which lists offences). In most planning enforcement cases, however, the offence arises from non-compliance or contravention of a notice: e.g. an Enforcement Notice or Breach of Condition Notice and are known as 'indirect offences'.
- 6.11 Prior to suspension of the Northern Ireland Assembly in 2002, the Assembly's Environment Committee sought the inclusion of universal criminalisation of development without planning permission in what later became the Planning (Amendment) (Northern Ireland) Order 2003. The Committee was concerned about the disregard by some developers for the requirement to obtain planning permission prior to commencing development.
- 6.12 Following suspension, the then Minister of the Environment, Angela Smith MP, concluded that further work was needed to determine whether a robust case could be made for a new criminal offence. A benchmarking exercise²⁷ of planning enforcement in Northern Ireland was carried out against the position in a sample of nine local planning authorities throughout Great Britain, including an assessment of the case for criminalisation. This report made a number of 'best practice' recommendations and concluded that criminalisation of development without planning permission should only be contemplated when effective use was being made of existing enforcement powers. The Department decided that it would review the case for introducing a new

²⁷ 'Benchmarking of Planning Enforcement' report was published in October 2005.

criminal offence when the report's recommendations had been implemented and the effective application of the current enforcement powers had been realised.

6.13 While there are no universal criminalisation provisions in other UK regions, it is a criminal offence in the Republic of Ireland (RoI) to commence development without first having obtained planning permission²⁸. However, the planning regime in the RoI is very different to that in Northern Ireland. The Planning (NI) Order 1991 provides a very extensive system of enforcement powers designed around the fact that it is generally not an offence to commence development without planning permission. It includes powers to require the submission of retrospective applications to regularise development. The enforcement system in the RoI is more limited because it is an offence to carry out unauthorised development – for instance there is no right to an enforcement appeal hearing. Moreover, even with criminalisation, provisions are still required in the RoI for enforcement action to be taken to remedy a breach of planning control.

Arguments in Favour of Criminalisation

6.14 A consultation paper on the Review of Planning Enforcement in England (2002) assessed the case for and against criminalisation. The paper concluded that the main advantages of universal criminalisation are that:

- it would clarify the uncertainty about the current status of unauthorised development;
- it would send a clear signal that development without permission would not be tolerated;
- it would provide a means to tackle short-lived breaches effectively; and
- it would provide a stronger deterrent.

Arguments Against Criminalisation

6.15 However, the English Review also highlighted the following disadvantages:

- the margins between lawful and unlawful development are not clear-cut. The planning system provides for permitted development rights, the accrual of lawfulness of development over time, questions as to when a change of use is material, the nature of ancillary uses, and so on. Whilst these help to ensure that the planning system as a whole is not burdened with unnecessary regulation, they inevitably introduce elements of uncertainty. Under the current arrangements, the onus is on an appellant/offender to prove, on the balance of probability, that there has been no breach because what he is alleged to have done has either not taken place or

²⁸ Section 151 of the Planning and Development Act 2000.

is lawful. Criminalisation would shift that burden of proof from the appellant/offender to the planning authority, which, as in any other criminal proceedings, would need to prove ‘beyond reasonable doubt’ that a breach had occurred. Given the complex nature of the planning system and the reliance which may need to be placed on the precise nature of the planning history of a particular site, satisfying the criminal burden of proof may prove extremely difficult and therefore make enforcement less rather than more effective. Unsuccessful convictions would only serve to undermine confidence in the planning system;

- criminalisation could encompass all breaches of planning control, no matter how minor or trivial. Whilst it might be possible to distinguish certain breaches as being more significant than others, to do so would present very real difficulties and introduce further uncertainty. Without such caveats even someone who unwittingly committed a very minor breach of planning control could (on successful prosecution) find that they had a criminal record; and
- it is debatable whether Magistrates Courts are a suitable forum within which to argue the fine technicalities of planning legislation; and indeed, they might become overburdened by the additional caseload.

6.16 In the Northern Ireland context there may also be reservations on how criminalisation would merge with the existing planning legislative framework in practical terms: for example, there is no distinction drawn in the Planning (NI) Order 1991 between serious and less serious breaches of planning law. In addition, the Planning (NI) Order 1991 is built around a framework where generally it is not an offence to commence development without planning permission: to introduce such an offence may require an additional full and detailed review of this complex Order.

Conclusion

6.17 The creation of a new offence requires careful consideration as it is one that is likely to have many consequences, both in terms of the possible resource implications of policing it and, of course, for individuals who have breached planning control. Any extension of the criminal law needs to be very clearly justified. It is clear from the preceding paragraphs that a number of issues remain to be considered about the effectiveness of criminalisation in terms of benefits to the Northern Ireland planning system. It would be important that any proposed criminalisation measure should focus on wilful breaches of planning control as opposed to accidental breaches. The Department believes that, given all the other enforcement tools available, the need for criminalisation where development proceeds without planning permission must be clearly demonstrated before it should proceed. A comprehensive and detailed policy review, including public consultation, would be necessary to determine not only the implications of the policy (not least the raised public

expectations it might bring) but also the wider policy and legislative framework within which any new provision would operate.

- 6.18 The preceding paragraphs are intended to give some detail on the advantages and disadvantages of universal criminalisation. We wish to gauge current public opinion on the whole issue. The way forward and possible legislative implications (including timescales) can then be revisited post-consultation from a better informed position and in the context of the wider emerging reform programme. At present, primary legislation of the Assembly to introduce or amend criminal offences or penalties would require the consent of the Secretary of State.

Question 73

Do you think the Department should give further consideration to making it an immediate criminal offence to commence any development without planning permission?

Chapter 7 - Developer Contributions

There has been much debate in recent years, particularly in Great Britain, in relation to increasing the levels of contributions which should be required from developers to support infrastructure provision. This has been on the basis that the public might share in the uplift in land and development values arising from the granting of planning permission through financial contributions from developers to the provision of infrastructure needed for social and economic development. In general, while the UK property and development industry has accepted this principle, there has been sustained debate regarding the level of contribution and the most appropriate mechanism under which contributions should be secured.

Introduction

- 7.1 The Executive has set out a range of priorities for Northern Ireland's economic and social development. It is recognised that increased investment in necessary supporting infrastructure will be required to ensure that development is delivered on a structured and sustainable basis. While the Investment Strategy for Northern Ireland 2008-18 (ISNI) sets out an ambitious target to deliver £20 billion of new infrastructure²⁹, it acknowledges a legacy of under-investment in the past. Particular attention is drawn to the pressing need for investment in transport, schools, healthcare estate, water and sewerage systems.
- 7.2 The basis of the case for seeking increased developer contributions is that the granting of planning permission will almost always increase the value of the land to which the permission relates. As the granting of that permission comes from the public sector it is argued that the public has a right to share in this increase in value, or development gain, brought about by the granting of planning permission and to use this to contribute to the cost of infrastructure needed to support development growth.
- 7.3 The concept of developer contributions in Northern Ireland is not entirely new. Planning Policy Statement (PPS) 1 (General Principles)³⁰ currently identifies that contributions from a developer may be required: for example, where a proposed development requires the provision or improvement of infrastructural works over and above those programmes in development plans;

²⁹ Available at <http://www.pfgbudgetni.gov.uk/index/investment-strategy-for-northern-ireland.htm>.

³⁰ PPS1 General Principles DOE March 1998 available at http://www.planningni.gov.uk/AreaPlans_Policy/PPS/pps1/PPS1.pdf

where a programme scheme needs to be implemented earlier; or where a proposed development is dependent upon the carrying out of works outside the site.

- 7.4 These contributions can be secured either through conditions attached to planning permission or through a negotiated, legally binding planning agreement, commonly referred to as an ‘Article 40 agreement’,³¹ which is also binding on future owners or occupiers of the land. In all cases, conditions and agreements must relate to the development to which the application for planning permission relates. If there is a choice between imposing planning conditions or entering into an Article 40 agreement, the Department will normally impose conditions as they are simpler to administer and allow the applicant an opportunity to appeal, whereas an Article 40 agreement is entered into voluntarily and is legally binding. These powers are not exercised extensively, with an average of about 10 such agreements concluded each year in Northern Ireland.
- 7.5 While an Article 40 agreement has the advantage of being able to address complex matters there are a number of issues which can present difficulties to the parties involved. For example, because such agreements are secured through negotiation they require particular skills and the process can be both resource intensive and potentially lengthy as both sides normally require legal advice. Where an Article 40 is considered necessary it is a material consideration in determining a planning application and therefore has to be completed before a decision can be made on the granting of planning permission.
- 7.6 Recently in Northern Ireland, attention has focused on investigating how Article 40 powers might be used to secure contributions towards social housing following the publication of the Semple Review³². The Department is committed to taking forward work on this important issue with the Department for Social Development, commencing with a review of PPS12 (Housing in Settlements) and investigation of the operational considerations associated with implementing a revised policy.

Position in Great Britain and Republic of Ireland

- 7.7 In Great Britain local authorities have powers³³ similar to Article 40 but make more extensive use of them in securing contributions from developers than is currently the case here in Northern Ireland. However, recent research has shown that the exercise of powers by GB authorities is far

³¹ Under Article 40 of the Planning (NI) Order 1991 any person who has an estate in land may enter into an agreement with the Department.

³² Review into Affordable Housing (April 2007) by Sir John Semple available at www.dsdni.gov.uk

³³ In England and Wales the equivalent powers to Article 40 are set out in section 106 of the Town and Country Planning Act 1990 and in Scotland in section 75 of the Town and Country Planning (Scotland) Act 1997 (augmented with other powers in relation to local government and roads). Reference is therefore frequently made to ‘section 106 agreements’ and ‘section 75 agreements’ in these jurisdictions.

from uniform with wide variations in practice.³⁴

- 7.8 In the Republic of Ireland developers may be required by the local planning authority to contribute to the cost of providing public infrastructure and facilities that benefit development in their area³⁵. The basis for determining such a contribution is formally set out in a contribution scheme. These developer contributions are in addition to powers relating to affordable housing, under which contributions may be sought from developers in the form of land, housing units and financial sums.

Community Infrastructure Levy

- 7.9 In order to secure increased developer contributions, the Westminster government had proposed to introduce a UK-wide tax, known as the Planning Gain Supplement (PGS), which was intended to capture a proportion of any development gain caused by an increase in the value of land following the granting of planning permission. While PGS would have been applied on a UK-wide basis, the intention was that all revenue raised within a devolved administration would have been returned to that administration.
- 7.10 In October 2007, following objections from the property and development industry in GB, the government withdrew plans to introduce legislation for PGS. Instead, powers to introduce an alternative system in England and Wales, known as the Community Infrastructure Levy (CIL), have been included in the Planning Act 2008.³⁶ Under CIL local planning authorities (LPAs) will be empowered to introduce a statutory planning charge on development and to use the resulting money to support infrastructure provision.
- 7.11 While much of the detail on how CIL will operate will only emerge in the next few years it is intended that the system will be plan-led, with infrastructure requirements to be funded by CIL identified and costed as part of the local development plan process. Where a LPA chooses to introduce the CIL, both residential and commercial development will be liable, subject to qualifying thresholds (excluding householder development by homeowners). One benefit of the CIL proposals is the greater degree of predictability for developers in terms of known financial liability in advance of development. The cost of required infrastructure for the area will be calculated at the same time as the local development plan is being prepared, with a charging

³⁴ 'Valuing Planning Obligations in England: Update Study for 2005-06' available at <http://www.communities.gov.uk/publications/planningandbuilding/obligationsupdatestudy>. 'Assessment of the Value of Planning Agreements in Scotland between 2004 and 2007' available at <http://www.scotland.gov.uk/Publications/2008/03/05114332/0>. 'The Use and Value of Planning Obligations in Wales' available at <http://wales.gov.uk/topics/planning/planningresearch/publishedresearch/1847126/?lang=en>

³⁵ Under sections 48 and 49 of the Planning and Development Act 2000.

³⁶ The Planning Act 2008 is available at <http://www.opsi.gov.uk/acts/acts2008/>

schedule providing a basis for estimating the liability a certain type or size of development is likely to attract. The calculation of a development's CIL liability is independent of the consideration of the planning application; however, there remains a strong link between the CIL and the planning system given that the amount of a CIL charge is based on the information in a planning permission, with the developer becoming liable for the payment of the CIL charge upon the commencement of development.

- 7.12 The Planning Act 2008 provides that Regulations may set out what is meant by infrastructure and lists examples of infrastructure to which CIL could be applied. These include things such as transport and flood defences, schools, sporting and recreation facilities, medical facilities and open spaces. To ensure that the CIL can be kept up-to-date the Act also contains a power for Regulations to amend the list of infrastructure types to which CIL revenue can be applied.
- 7.13 CIL, however, will only be available to LPAs in England and Wales, meaning that no alternative to PGS to secure increased developer contributions beyond current site-specific issues has been proposed for either Scotland or Northern Ireland. The Scottish government has decided to postpone a planned review of developer contributions to avoid placing additional burdens on development at this time. In the meantime, as part of the ongoing programme of planning reform in Scotland, it is intended to revise and update current guidance relating to planning obligations secured under section 75 agreements and related powers.
- 7.14 While the Department of the Environment does not have responsibility for the provision of infrastructure, such as roads and water, in Northern Ireland, this consultation on planning reform provides an opportunity to take forward the debate on what is a potentially significant area for Northern Ireland's future development. The planning system's role in this debate is in common with the rest of the UK and RoI, where planning is recognised as a key mechanism through which to secure higher levels of developer contributions, even if that infrastructure may be delivered by other bodies.
- 7.15 While the approach adopted in England and Wales clearly separates the issue of affordable housing from developer contributions to infrastructure provision, thought might be given, in the Northern Ireland context, to the inclusion of affordable housing as an element of social infrastructure which could be funded under a single developer contributions mechanism, rather than as a separate process. These issues can be considered independent from the current work on PPS12 mentioned in paragraph 7.6.

Developer Contributions in Northern Ireland

7.16 The Department believes that it is right that developers should make an appropriate contribution to the provision of infrastructure in order to help deliver economic growth and social development, including new housing, in a sustainable way. There are two options identified for securing increased levels of developer contributions:

- extended use of existing Article 40 powers; or
- development of a CIL-type levy on a regional or sub-regional basis.

Extended Use of Article 40 powers

7.17 One option is to extend the use of Article 40 powers to secure higher levels of contribution. Such an approach could provide an increased level of funding for infrastructure provision (or particular elements of infrastructure) within existing legislative powers, although a revision of PPS1 (General Principles), governing the use of Article 40 planning agreements, would probably be required.

7.18 However, such an approach would have a number of operational consequences:

- each agreement continues to be agreed on an individual basis, normally involving detailed, and potentially lengthy, negotiations which can impact on the time taken to consider and decide upon a planning application;
- as an Article 40 agreement relates to a particular development proposal it is possible that there would be variation in operational practices across teams managing individual planning applications, as has been the case in GB, with any variation being potentially greater with the transfer of planning powers under RPA; and
- tying infrastructure provision to particular developments could mean that developers who first develop an area may bear an unreasonable proportion of the costs for supporting infrastructure which unlocks an area for development, compared with subsequent developments that would enjoy the benefits of that infrastructure without having made an appropriate contribution, if any, towards its provision.

CIL-Type Levy

7.19 Alternatively, a levy system on a regional or sub-regional basis could be considered, possibly along similar lines to the CIL in England and Wales, which would identify key infrastructure necessary to support Northern Ireland's economic and social development. Such a system could be based on identified costs for the proposed infrastructure over a given timeframe and aligned with predicted levels of central government, and other, sources of funding. An agreed basis of

calculation could then break down any shortfall in infrastructure funding across anticipated levels of development, assigning a predictable financial liability against the type and level of any proposed development. While it is not necessary at this stage of the debate to determine how infrastructure and associated costs might be identified, future options might include development plans, the Regional Development Strategy or the Investment Strategy for Northern Ireland.

7.20 Such a levy system could have particular benefits including:

- an equitable financial liability placed upon all development regardless of the size or nature of the proposed development (although consideration could be given to agreed thresholds) or the timing of its proposal;
- greater predictability of anticipated income to supplement infrastructure provision over the longer term;
- predictability for developers in terms of assessing the financial liabilities associated with a development as the liability could be determined at the outset rather than being dependent upon negotiation;
- a strategic approach to managing development;
- the absence of resource intensive negotiations for the majority of developments;
- the consideration of contributions would lie outside the system for determining planning applications with no adverse impact upon the timescales for deciding on planning permission; and
- integration of activities across government departments in the delivery of infrastructure.

7.21 Such an approach would also have operational consequences to be considered, including:

- the time required to develop an effective system;
- determining a suitable plan or framework to determine infrastructure requirements and costings;
- the development of a mechanism to calculate and assign financial liabilities on developers;
- flexibility to cope with different market trends or economic conditions at regional or local level;
- legislative provision to underpin the system; and
- agreement as to which department(s) should lead on this work.

Question 74

Do you agree that there is a case for seeking increased contributions from developers in Northern Ireland to support infrastructure provision?

Question 75

If so, should any increase be secured on the basis of extending the use of individual Article 40 agreements with developers on a case by case basis?

Question 76

Alternatively, should a levy system of financial contributions from developers be investigated in Northern Ireland to supplement existing government funding for general infrastructure needs, e.g. road networks, motorways, water treatment works etc., in addition to the requirements already placed upon developers to mitigate the site-specific impact of their development?

Question 77

What types of infrastructure should be funded through increased developer contributions, e.g. should affordable housing be included in the definition?

Question 78

If such a levy system were to be introduced in Northern Ireland should it be on a regional i.e. Northern Ireland-wide, or a sub-regional level?

Question 79

If such a levy system were to be introduced should all developments be liable to make a financial contribution or only certain types or levels of development e.g. residential, commercial, developments over a certain size?

Summary

7.22 The issue of developers making a greater level of contribution towards the provision of infrastructure necessary to support economic and social development in Northern Ireland is an area of evolving debate. The priorities of the Northern Ireland Executive, set out in the Programme for Government and the Investment Strategy for Northern Ireland, place a significant emphasis on the need for infrastructure provision to support economic, social and environmental

objectives. In order to do this Northern Ireland has to address not just the current challenges in a changing world but also the historic under-funding of such infrastructure provision over past years. However, in considering the options, it is critical that the level of any contribution is sustainable and facilitates, rather than deters, development.

Chapter 8 - Enabling Reform

In order to properly reform the planning system, we need to address many of the supporting elements that underpin the system, such as the culture, the capacity within the system to make it work, how it is funded, audit and inspection arrangements. This chapter looks at how all these might be addressed.

Introduction

8.1 The planning reform proposals outlined in the preceding chapters, including the fundamental structural changes that are to be taken forward under the Review of Public Administration (RPA), reflect the most radical changes to the planning system in more than 30 years. A number of key factors will be critical to our success in taking forward such a huge reform agenda. These factors or ‘enablers’ include culture change, capacity and the funding of the planning system.

Culture

8.2 As indicated at the outset of this paper, land use and development involves a complex interaction and analysis of economic, environmental and social issues. If we are to deal with these complex issues and successfully bring about change, it will require the development of a shared understanding amongst stakeholders on the role and nature of the planning system - what it is there to deliver and, as critically, what it is not – along with an enhanced appreciation and acceptance of both the rights and responsibilities of all stakeholders.

8.3 It is clear that the revised structures for devolved delivery of planning, along with the new local development plan system, the front loaded development management approach, and all the related changes to permitted development, appeals arrangements and so on will be very significant. However, changes to policies, processes and legislation will not in themselves be sufficient to reform the planning system. The reformed planning system will require a change in attitudes among stakeholders and development of an appropriate culture. This formal consultation process is a critical initial step in the planning reform process: it is a means of beginning the process of culture change for all those involved in the planning system.

Capacity

8.4 In addition to culture change, a key part of increasing effectiveness and efficiency will be ensuring that there is sufficient capacity within the planning system. By capacity we mean that both

planning staff and stakeholder bodies have the appropriate competences, behaviours and skills needed to help them play their part in implementing new and revised processes. Enhancing the capacity of all the key players and stakeholders is critical if the reforms are to be successful.

- 8.5 The Department is currently committed to a number of actions that directly contribute to enhancing capacity within the existing Planning Service. These include:
- a bursary scheme aimed at encouraging staff to attain professional planning qualifications;
 - a Trainee Planning Assistants scheme which recruits staff as trainee planners and then moves them to the Professional and Technical Officer grade in 3 years after they complete a HNC in Land Administration at the Belfast Metropolitan College;
 - from 1st January 2008 the Agency has committed to reimbursing planners for the fees paid to professional bodies such as the Royal Town Planning Institute (RTPI);
 - ongoing training and professional development for staff; and
 - development of a structured competence-based approach to the training and development of specialist planning staff.
- 8.6 The Department also contributes to a range of measures intended to enhance capacity in the wider planning system: for example, through the continued financial support for Community Places (formerly Community Technical Aid), which is a registered charity that provides planning, architectural and project development services to community projects of benefit to recognised disadvantaged communities, and involvement in a joint NILGA/Planning Working Group.
- 8.7 In looking ahead to 2011, the Department is working with other sectors, through the RPA implementation structures, to explore the opportunities to enhance capacity within the system, particularly to ensure readiness for the changes that will arise in the context of the implementation of the RPA as well as planning reform.
- 8.8 In addition, for the future regime, there may be merit in exploring the options for a Planning Delivery Grant³⁷/Planning Development Budget³⁸ type approach, as a part contribution to supporting capacity building, learning and development within the wider planning system. It may also be appropriate to explore the role of the Planning Advisory Service³⁹ in England and whether

³⁷ The Planning Delivery Grant, which has been in place in England since 2002 (and recently became the Housing and Planning Delivery Grant), is an incentive grant, allocated by central government to reward authorities for performance across a range of planning related functions which contribute to the achievement of government targets.

³⁸ The Planning Development Budget is used to support a planning development programme intended to help authorities within Scotland address their training and development needs. It is part funded by central government, with authorities also being expected to contribute.

³⁹ The Planning Advisory Service is part of the Improvement and Development Agency for local government (IDeA) and provides expert advice, support, training, various planning tools and so on to all those working in and with the planning system in England.

there would be any appetite for, or scope to secure, support for Northern Ireland authorities, particularly in the initial period following the transfer of functions.

- 8.9 Capacity requirements, particularly in the context of the RPA and reform, are not limited to planning staff and councillors but affect many stakeholders and all aspects of the planning system. To this end, engagement with groups such as the Construction Employers Federation, the Institute of Directors and others could be pursued further to explore opportunities for shared stakeholder development, enhanced mutual understanding and so on. There may also be scope for more structured/focused work to be taken forward with professional bodies such as the RTPI and with the local universities to ensure that the systems in place contribute to the development of the right skills among the range of professionals involved in all planning-related disciplines. In addition, it may be beneficial to consider options for rolling-out a wider public education/awareness process. Any actions taken will have resource implications and these will have to be taken into account.

Engaging Communities

- 8.10 As indicated at the outset, a key objective in relation to planning reform is to ensure that the planning system allows full and open consultation and engages communities. At present there are many opportunities for communities and other key stakeholders to engage with the planning process, whether through the preparation of policy, the development plan process or, indeed, on individual planning applications. Ensuring that the openness, transparency and opportunity for effective engagement continues in the future planning system is at the core of the reforms being proposed and is critical to ensuring integrity and confidence in the planning system.
- 8.11 To help local communities understand and engage with the planning process, the Department will consider how best to support communities and help contribute to building confidence in both plan-making and development management.

Question 80

The Department invites views on how we (and other stakeholders) might ensure that all those involved in the planning system have the necessary skills and competencies to effectively use and engage with a reformed planning system.

Statement of Community Involvement

- 8.12 A statement of community involvement (SCI) is one way by which we can clearly demonstrate
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our commitment to community involvement. The purpose of a SCI is to set out the procedures for involving the local community, both urban and rural, in the preparation and revision of local development plans and for consulting on planning applications. This ensures that community groups, the voluntary sector and the wider public are aware of why community involvement in the planning process is important and how they can become involved.

- 8.13 In Northern Ireland the Planning Reform (NI) Order 2006 introduced a requirement on the Department to prepare a SCI for its development plan and development control functions. Work on the Department's SCI is well advanced and it is intended that this will be published in due course.
- 8.14 Under the RPA the requirement to prepare a SCI will pass to each of the newly formed councils for their development plan and development management functions. In relation to content, it is expected that the SCI should address how the community are involved as follows:
- **Preparation and revision of development plan(s).** The SCI should set out the plan for community involvement throughout the plan process, from the early stages of plan preparation through to adoption. It should indicate the proposed methods of involvement relevant to the community, the stage of plan preparation that it will take place and the scope of community involvement. As indicated in chapter 3, it is proposed that a district council must have its statement of community involvement in place and agreed by central government before any consultation on the local development plan can begin (paragraphs 3.14 and 3.15).
 - **Processing of planning applications.** The SCI should set out the methods by which the public can express their views at the various stages of processing a planning application, and after a decision has been made.
- 8.15 Guidance will be prepared to assist councils in the preparation of a SCI, addressing such matters as its purpose, the content of the document and the preparation process, which will include issuing a draft SCI for comments to be received from the public. It is proposed that the final SCI prepared by councils will be agreed with the Department before it is published. The district councils would also be expected to periodically review the SCI in line with the guidance on their preparation.

Funding

- 8.16 Reform of the planning system will have economic consequences: for example, any extension of permitted development rights, proposals for proportionate decision-making and for recovering costs of consultees will affect both fee income generated and resources expended. The fee regime

will therefore need to be reviewed and revised as necessary to take account of the changes brought about by reform.

- 8.17 Likewise the impact of the RPA will require detailed work to be undertaken to profile costs and income across proposed new council areas to ensure that each council is appropriately funded once functions are devolved.
- 8.18 The Department proposes to appoint specialists in 2009 to provide expert advice on how the planning system should be funded in light of the RPA and the proposals for reform and, in particular, to advise on the implications for the fee regime, while also ensuring that we get as simple and transparent a system as possible. Following this, the Department intends to issue a consultation paper on the funding of the planning system.
- 8.19 With regard to the setting of fees post-RPA, the Department proposes that fees should be set centrally for the first 3 years following transfer of responsibility of planning functions to councils. This would ensure consistency of fees across all council areas. However, in line with the concept of devolving power to local government, it is proposed that this arrangement would then be subject to a full review, and consideration given to transferring fee setting powers to councils.

Question 81

Post-RPA, do you agree that central government should continue to set planning fees centrally but that this should be reviewed after 3 years and consideration given to transferring fee setting powers to councils?

Audit/Inspection

- 8.20 Another key way to demonstrate the effectiveness and integrity of the planning system will be through governance and performance management arrangements. The role of audit, inspection, performance management and monitoring will be critical in ensuring that planning functions are carried out and are seen to be carried out in a clear, fair and consistent manner and that best practice is applied across the new district councils. These functions will also be important in providing a quality assurance service for the councils.
- 8.21 At present, the Department has its own planning audit function which undertakes regular reviews of planning processes within the Planning Service. In relation to district councils, the Local Government Auditor is currently responsible for financial and value for money audits. However, the nature of these local government audits is very different from the planning audit function, which focuses primarily on specialist planning issues. In light of the views expressed by political

representatives, including the Environment Committee, industry representatives and others in relation to the need for strong governance arrangements in relation to planning, the Department is proposing that central government should have a statutory audit/inspection function. An audit/inspection function of this nature could cover general or function-specific assessments of both central and local government's planning functions, reviewing planning processes and the application of policy, with a focus on quality assurance, advice and the promotion of best practice. It is the Department's view that this approach would help to provide further assurance to the public that the planning system is open, fair and transparent.

Question 82

Do you agree that central government should have a statutory planning audit/inspection function covering general or function-specific assessments?

- 8.22 In the rest of the UK there is also a statutory requirement on local authorities to provide performance information to central government on a range of areas, including planning. There is clear merit in central government collating, analysing and possibly publishing NI-wide planning information on performance, application numbers, local development plan preparation etc. This information would also be relevant to fee setting. As part of the preparation for the return of planning functions to district councils, planning officials will be working closely with local government on a range of issues such as performance management.

The Next Steps

- 8.23 As indicated at the outset, the proposals outlined in this paper lay the foundation for an improved planning system which the Department believes will encourage the investment Northern Ireland needs for economic growth, creating jobs and opportunities for all, while protecting the best of our natural and built environment.
- 8.24 This consultation exercise closes on 2nd October 2009. Following the analysis of responses to the consultation paper, the Department will outline the intended way forward, including identifying which proposals require legislative change. The Department intends to work closely with all who have an interest in the planning system and welcomes your views and comments on the proposed measures.

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Annex 1

Planning Reform in Northern Ireland

Independent Report to the Minister for the Environment

Professor Greg Lloyd

April 2008

Introduction

In November 2007, I was appointed to provide an independent opinion to the Minister of the Environment in the Northern Ireland Assembly Government on the medium to long-term measures that could be taken to reform the land use planning system in Northern Ireland.

The interest in reforming the land use planning system forms part of a wider political agenda – Programme for Government – which seeks to build a peaceful, fair and prosperous Northern Ireland. Importantly, the Programme for Government recognises the powerful interactions between enabling sustainable economic growth and development, promoting social and community cohesion and securing the enhancement of natural and cultural environments.

Land use planning offers an important means of achieving these political and social ambitions. It seeks to achieve the orderly development of land to meet the needs of Northern Ireland, to secure the strategic mediation of the different economic, social and environmental values and interests involved in land and property development, whilst serving as an efficient and effective governance mechanism in the wider public interest.

This report sets out my independent opinion on what medium to long-term reform measures could be taken to put into effect the intended and appropriate reform of the land use planning system in Northern Ireland. The report points to the importance of not viewing the reforms as isolated events which are detached from global economic and environmental agendas, the political and economic aspirations in Northern Ireland, and the quality of its regional environment. Furthermore, the processes of institutional change associated with the emerging Review of Public Administration which will lead to land use planning becoming a local authority responsibility are important in the longer term.

The reforms of the land use planning system in Northern Ireland are intended to achieve a more efficient system of development management and forward planning, to be more effective in delivering the expected outcomes in terms of development and seek to promote a rounded balance of economic development, social stability and environmental priorities. Reform seeks to promote a new respect for the

spirit and purpose of the land use planning system in a modern Northern Ireland through an appropriate ‘collegiality’ by all those involved.

In short, a new land use planning system will facilitate the wider public interest in Northern Ireland in meeting its future needs and aspirations. More importantly, reform seeks to sustain an active engagement in a new land use planning system so that it can realise its role as a pivotal measure by which Northern Ireland can achieve its stated economic, political, social and environmental ambitions.

Preparation of the report

In preparing this Independent Report I have drawn on evidence from a number of sources. I was able to read a number of background papers prepared by the Department of Environment Planning Service, and reports published by other departments, such as the Department of Regional Development. I have read academic research reports and policy papers relating to the performance of land use planning, and studies of the potential for integrating regional spatial planning with local land use planning in Northern Ireland. I have drawn on the differential experiences associated with the modernisation of land use planning in England and Wales, Scotland and Ireland. This evidence suggests the importance of a robust strategic context to the land use planning system, and the case for land use planning reform rests on making those forward planning and regulatory arrangements as effective, efficient and as transparent as possible.

A principal concern with land use planning rests on its appropriateness in a rapidly changing and uncertain world. Importantly, however, the land use planning reforms being put into place elsewhere seek to reflect the specific conditions of each jurisdiction and build on their individual strengths. A greater sensitivity to space and place is considered important, and I have borne this consideration carefully in mind in the preparation of this report.

I have benefited from a series of very productive meetings with a range of senior and operational staff in the Department of the Environment Planning Service. This included staff at its Headquarters and Divisional Offices across Northern Ireland. This has given me a tremendous insight into the different land use planning and property development contexts that prevail. I have also been privileged by meetings with senior staff in the Department of Regional Development, Department of Social Development, the Planning Appeals Commission, Environment and Heritage Service, and the Roads Service. These provided important insights into the particular institutional responsibilities for land use planning at present, the ways in which the land use planning system currently works, and how the reforms must take such institutional circumstances into account. This critical understanding is important as a key objective for the reform of land use planning is that of seeking greater efficiency, effectiveness and consistency in decision making across Northern Ireland.

Importantly, I was also able to meet with key stakeholders in the different aspects of the land use planning system including representatives from the business and property development communities, environmental and community planning groups, and with local government. It became very clear from these preliminary meetings that there is an almost universal recognition of the importance of land use planning in a modern Northern Ireland. The role of land use planning is held to be an important means of delivering the desired economic, social and environmental changes for Northern Ireland.

Whilst there are a number of concerns expressed about the perceived inefficiencies and delays in current land use planning practices there is a marked enthusiasm to strengthen it and address its perceived weaknesses. The stakeholders asserted that there is a valid case for reform of the land use planning system in order to secure efficiency gains in its decision making, and provide greater consistency and certainty for all those involved in planning and development in Northern Ireland. This general view was expressed across the private and public sectors, and is evident at the regional and local scales of involvement.

Current land use planning in Northern Ireland.

The various meetings and discussions I have engaged in demonstrate the highly differentiated nature of current land use planning activities across Northern Ireland. First, there is considerable diversity in its sub-regional economic, social and environmental characteristics. Moreover, there is a differentiated pattern and geography of land and property development pressures. These features need to be taken explicitly into account in the land use planning reforms. It suggests the need for robust strategic planning to guide the public interest and to allow for the mediation of local circumstances.

Second, my discussions and observations reveal a fragmented set of existing economic development agendas, social and community regeneration ambitions and environmental priorities. This is reflected in the divisions between Ministerial portfolios, Departmental responsibilities, within Departments and across Departments, and in the 'arms length' relations between agencies that fall within the broad remit of land use planning. The responsibilities, for example, with respect to regional development, community regeneration and land use planning sit in different Departments. Across this inter-departmental spectrum policy and operational activities are not necessarily fully integrated. This not only applies to putting policy priorities into practical effect, but also in the processes associated with critical learning about new planning and development issues. This will be important in achieving the necessary culture change in land use planning reform. Agencies engage with land use planning at a distance, and discussions tend to be very formal and administrative in character.

The land use planning world and its relationship with regional planning, community regeneration and environmental management is changing very rapidly and there is a very strong case for promoting a

greater collegiality of understanding of planning options to promote the public interest in Northern Ireland. In order to establish a modern land use planning system in Northern Ireland these institutional arrangements should be reviewed so as to achieve more efficient governance, a better fit between the strategic regional and sub-national levels of decision-making, and to establish greater consistency and certainty for all decision-makers concerned.

Land use planning reform must include creating a robust strategic planning framework which asserts what is understood as the public interest in the context of Northern Ireland as a whole, and thereby facilitate the positive articulation of local decision making by local authorities where economic, social and environment matters can be mediated in the localised public interest. Appropriate institutional working is an essential pre-requisite to implementing the new land use planning system within central government itself, and certainly is a requirement for deliberative action between central and local government where the execution of planning will take place. It will contribute also to the effective transfer of land use planning to local authorities in 2011. This would also promote better understandings with a diverse private sector and across the different localities of Northern Ireland.

Scope of land use planning reform in Northern Ireland

The nature and scope of the intended land use planning reform in Northern Ireland is ambitious. This is a result of the contextual ambitions associated with political agendas for achieving economic development, the implementation of the Review of Public Administration and its associated devolution of land use planning together with the extent of reforms themselves. In effect, these serve to create what may be considered to be a new land use planning system in Northern Ireland. This point alone suggests that what is being considered here in terms of land use planning reform goes beyond what has been attempted, for example, in England, Wales and Scotland. There the reforms seek to improve the efficiencies in decision making, effectiveness in delivery and to promote more active engagement in land use planning. Further, the reforms are able to build on a longer established local government experience with land use planning.

In Northern Ireland, however, the intended reforms to the land use planning system are primarily concerned to improve the efficiencies in its decision making, to secure greater effectiveness in the delivery of society and planning objectives, and to promote more active engagement by stake-holders in its various processes. These gains are paramount in devising a land use planning system appropriate to the needs of Northern Ireland, and will provide the foundations for the subsequent transfer of planning functions to local government.

A general criticism of the land use planning system in Northern Ireland is that it rests on its processes rather than its outcomes. First, this reflects the very distinct history of experience and anticipated rights to land and property development. This has contributed to what holds as a general understanding of the role

of land use planning. What role does land use planning play? What does it seek to do? How does it operate? How can individuals become involved in its different processes? In short, the history of land use planning in Northern Ireland has encouraged an assertion of private interests, and this has served to obscure an appreciation of what may be held to be planning for the wider public interest. This has tended to encourage a view that the principal purpose of the land use planning system is to inhibit private development aspirations.

There are practical aspects to this cultural fix. It manifests itself in a number of differentiated ways: the intense land and property development pressures in Belfast; the propensity to build single dwellings across rural areas of Northern Ireland; and the very defensive organisation against development proposals in suburban areas. This characteristic is important for a number of reasons. It has placed the land use planning system, including the Planning Appeals Commission, under undue administrative pressure, and any perceived delay or inefficiency then attracts further negative criticism of the land use planning system.

The established and inherited culture around land ownership has encouraged a tendency to patronage in the planning decision making process. This of itself introduces an unwarranted distortion of the efficiency and equity of the planning system which is seeking to mediate the public interest. Moreover, it can create even further negative views around what the land use planning system is seeking to deliver. The culture can create unhelpful signals in local land and property development markets which obscure the attempts by planners to anticipate future change in different localities.

The present land use planning system is both centralised and characterised by institutional and departmental fragmentation. This reflects the inherited form of government in Northern Ireland, and the specific relations between central government and local authorities. This is being addressed through the Review of Public Administration. The combination of centralised responsibilities and functions is compounded by perceptions of the roles of local councillors and the role of the independent quasi-judicial Planning Appeals Commission. Whilst the Commission may be seen as an important (and independent) appellant body offering a check and balance in the land use planning system, it is still viewed as part of the centralised apparatus of government and land use planning. Relating to a broader point concerning a lack of local understanding and engagement with land use planning there is a view that councillors' role is to counter the bureaucratic actions of the Planning Service – elected members simply act in an advocacy role – which may be asserting the right to develop or seeking to restrict a development proposal;

It is also held that a characteristic of the land use planning system is that it is subject to a democratic deficit and its procedures are complex. It is noted that representations to development plans and the

associated inquiries are exposed to sectional land and property development interests. Indeed, it is felt that community interests and environment values are squeezed out of these cumbersome bureaucratic arrangements. This characteristic encapsulates the need for decision making procedures that necessitate appropriate engagement – the reported ‘no shows’ at inquiries, the pressure of planning to produce decisions that can only be favourable to the protagonist all serve to erode the standing of the land use planning system and by extension what is held to be the public interest for Northern Ireland.

The reforms then need to address the specific management of the land use planning process. Linked to the above point, the land use planning process is seen as taking too long. As a consequence, community interests may not be sustained over time and this tends to result in a further erosion of the perceived legitimacy of, and confidence in, the land use planning system.

Finally, there are too many uncertainties for the land and property development sector. This reflects a broader criticism expressed across the board, although it is far more complex in nature. My attention was drawn to certain developers, for example, who approach the land use planning system well prepared and with the appropriate advice and resource. In such circumstances, this is then the efficiency of the planning decision making process. Using another argument the appropriate culture, in terms of a balance of rights and responsibilities is being demonstrated. In other instances, however, development applications are not sufficiently prepared and this introduces attendant delays into the decision making process. It is important to note that this is not the primary fault of the land use planning system but the manner in which it is being used. This also contributes to further delay and congestion in the planning process. Similarly, there is a case that delay and uncertainty can arise from the lack of an overall strategic planning framework for Northern Ireland. This would provide greater certainty both for the land and property development sector and the planning authorities. It returns to the notion of devising an appropriate understanding of Northern Ireland’s public interest.

Evidence from elsewhere

Throughout the UK there is a marked interest in seeking modernisation and reform of the individual land use planning systems. On the one hand, there is a general concern with the perceived inefficiencies in the decision making processes involved, the ineffectiveness of land use planning in delivering outcomes which are held to be appropriate to different localities, and the misunderstandings over the opportunities for engagement in the land use planning system.

It is not the intention here to document these in detail. There is considerable evidence that at present land use planning tends to create delays, uncertainties and costs for the land and property development sectors; it precipitates uncertainties and inconsistencies for the different stakeholders involved; it does not provide sufficient direction to land use and property development activities; it does not secure an appropriate

balance to social, economic and environmental values; and, as a consequence, it does not command sufficient support and confidence in its processes and outcomes. These are a number of generic points which can be identified and which vary according to regional and local circumstances and the stakeholders involved.

There is a common theme associated with these arguments. It reflects a much deeper attitude or understanding about the role of land use planning in a modern society. Generally, land use planning is not well understood by everyone and this leads to misconceptions and misrepresentations. The reasons for this are complex, yet it tends to lead to polarised debates about the role of land use planning. The intended role of land use planning in a modern Northern Ireland is a clear one. Land use planning serves to ensure that land and property development serves the expectations of various communities and takes place in an orderly and measured way. This suggests that there is a task to be carried out which promotes a broader understanding of this function and the important role that land use planning plays in ensuring the public interest in Northern Ireland is met.

In the UK, for example, reforms of land use planning have taken place and are still being implemented. The overall objectives have been to realise efficiency gains in the performance of the planning system, to improve its effectiveness in mediating interests and securing better outcomes in terms of land use and property development and in enabling deeper civil engagement in the various aspects of land use planning. It is not the intention here to document the detailed reforms being put into place elsewhere but to highlight some of the key elements which are of interest to Northern Ireland. These may be catalogued as follows:

First, there is evidence of new critical understanding of the role of land use planning in modern society. This is bound up in the view that the earlier land use planning system tended to be negative, serving as a regulator of land and property development and not being sufficiently supportive of new investment and development proposals. It was seen as holding up or delaying development. Today, there is a wider recognition that land use planning can serve as an important tool to deliver proposals across the public and private sectors. In short, land use planning is now seen as having an important positive role, whilst ensuring the appropriate mediation of the different economic, social and environmental considerations involved in individual cases. The recent Stern Review of Climate Change, for example, made explicit reference to land use planning playing a leading role in ensuring the necessary mitigation and adaptation to changing environmental conditions.

A related point concerns the provision of infrastructure for land and property development. This is a very complex area and represents a key role for the land use planning system. There is a recognition that infrastructure must be considered at a regional or strategic level as well as the local or site specific. In

general, the links between infrastructure provision and land use planning have become weaker over time, and strategic considerations have tended to be obscured by other matters. Now, however, there is a new recognition that both strategic and local infrastructure issues need to be re-united with the land use planning system. More importantly, perhaps, there is now a recognition that economic development agendas, for example, rely heavily on infrastructure capacity and provision and land use planning has a critical role to play in facilitating both strategic and local aspects.

Second, there has been a deliberate turn to enhancing a strategic planning dimension to inform local development planning and the regulation of land and property development proposals. This reflects wider debates about the need to address major issues such as infrastructure provision, key projects such as waste and transport which cut across local jurisdictions, and which link land use planning to other public policy sectors, including health and education. It is an acknowledgement that local land use planning does not take place in a vacuum, but needs to be located within a wider strategic context.

It is now recognised that regional spatial planning would contribute to a more efficient and effective land use planning system by establishing a strategic context for local decision making and the implementation of local authority priorities. In practical terms, for example, a regional spatial planning framework could map out the assert regionally significant infrastructure projects which represent Northern Ireland's public interest, and provide a platform on which local authorities can build their own local planning strategies.

The experience in Scotland, in particular, is instructive here. The introduction of the National Planning Framework forms the bedrock of its modernised land use planning system. Importantly, such an approach seeks to understand land and property development pressures across Scotland as a whole, and link these to underlying structural changes in economic development, demography and travel. It sets out the nature of this change in relation to the built environment, communities and settlements and to the natural environment. The National Planning Framework has now been given statutory force, is scrutinised in the Scottish Parliament and will provide a robust regional strategic planning context for local land use planning decision making. There are similar regional spatial planning arrangements in Wales, the Republic of Ireland and in the regions of England.

Third, there is a related importance of strategic guidance. Central government issues planning policy statements in various forms. These all serve a common purpose – to provide strategic policy guidance on key thematic issues. These tend to be cross-cutting over space, and may impact on different areas in different ways. The reforms elsewhere recognise that such strategic policy guidance plays an important role in providing that robust framework for local land use planning decision making. Significantly, as new environmental and economic challenges emerge, the policy guidance can provide an effective and flexible response to ensuring appropriate land use planning practices.

Fourth, reforms elsewhere have recognised that whilst the basic architecture of the land use planning is generally sound, it can be reconfigured to achieve more effective and efficient governance arrangements. In the context of development management, for example, a number of changes can be put into effect to facilitate these objectives. Front loading, improved pre-application discussions between potential applicants and land use planners, high quality development applications, a robust ‘plan led’ and regional strategic planning context all facilitate quicker and more confident decision making.

Moreover, there is an interest in encouraging developers to engage with the local community in which proposals are to be considered so as to prepare the way for a more streamlined land use planning process. In the context of development planning, there is an interest in up-front public engagement so as to expedite the process of agreement around the plan content. These changes suggest a more efficient administration of land use planning.

There is a particular interest in devising a proportionate approach to decision making – by classifying developments into different decision making domains. Reference may be made here to Scotland. Its new planning hierarchy rests on a distinction between national, major, local and minor scales of developmental decision-making. This seeks to devise an appropriate proportionality in scales of development, their strategic impacts and contribution to national policy objectives, and the decision-making arrangements involved.

The purpose of the new planning hierarchy, then, is to help identify and classify developments so that they can be dealt with in the most appropriate way. The current statutory period for the determination of all planning applications, for example, is 2 months yet this uniform approach and timeframe have proven to be insensitive to the diversity of development proposals going through the system. This is held to have contributed to administrative delays, and to have reduced investor confidence. Particularly with respect to major business and industry proposals which take longer to process than the majority of householder applications.

Underlying the proportionate approach is the argument that larger, more complex developments generally require enhanced scrutiny and engagement when compared with local developments which raise relatively more minor issues. In tandem, the hierarchical framework is intended to provide a more proportionate and prioritised approach for handling planning applications. Thus, by extending permitted development rights, it is anticipated that the new planning system could be relieved from the need to process very minor developments. Across the hierarchy, speed, efficiency and proportionality are thus promoted alongside greater democratic accountability, and greater clarity and certainty on timescales and procedures for decision-making.

At the present time, the thinking around the nature of the planning and development hierarchy is still

evolving. Some details are available through consultation papers and statements. National developments, however, are those which would make a significant contribution to regional sustainable economic development; strengthen the region's links with the rest of the world; deliver strategic improvements in internal connectivity; make a significant contribution to the achievement of climate change, renewable energy or waste management targets; are essential elements of a programme of investment in national infrastructure; or raise strategic issues of more than regional importance. In effect, regional developments are major infrastructure projects, which contribute to the regional public interest.

Importantly identification of a particular project as a national development is a means of asserting the need for such developments. Where applications for national developments fall within the scope of the Planning Act there will be then be a new process for their determination. This will give Scottish Ministers the opportunity to intervene, where necessary, to expedite decisions. Significantly, however, planning (and other permissions as are considered appropriate) will be required to deal with the siting and design of the proposed developments. Designation (in the National Planning Framework) establishes the need for a particular project, and any subsequent examination or inquiry will not be concerned with the principle. Here, the scrutiny by the Scottish Parliament will be all important in ensuring democratic and political legitimacy for the physical articulation of the national public interest.

Applicants for major developments would be required to carry out pre-application consultation in advance of submitting the planning application. This clearly has a resource implication, yet is compatible with the vaunted culture change which has driven this planning reform, and the assertion of creating a planning system that is more inclusive and transparent. Major developments would benefit from the opportunity of developers entering a 'processing agreement' with a local planning authority. This innovation is intended to facilitate the better project management and prioritisation of planning applications, and brings with it a different set of resource implications. The processing agreement has been developed in recognition of the argument that major developments generally require more than 2 months to progress and are differentiated in nature and context. A processing agreement would involve the applicant and planning authority agreeing a realistic timetable for the planning application to be efficiently determined, informed by the views of statutory consultees. A default position of 4 months for the determination of major developments is proposed.

The under-lying principle of the planning hierarchy is that decisions on local matters should be made locally. The Consultation Paper (Draft Regulations on the Planning Hierarchy, 2007) proposes that for all aspects of decision-making on most local developments these should be devolved to local authorities. It is axiomatic, then, that local developments are those developments that are not defined as national or major. It is proposed that in devising their schemes of delegation, local planning authorities would retain the

powers to delegate to officers a full range of planning decisions, whilst elected members would continue to deal with complex or controversial cases.

Finally, experience elsewhere suggest the need for a broader culture change with respect to the need for new rights and responsibilities in the land and property development process and the land use planning system. Reference to a culture change suggests that, over and above the legislative and procedural changes to the land use planning decision-making arrangements, there needs to be a change in the way in which society perceives and articulates the value and purpose of planning as a social activity.

In essence, without a raised awareness and shared understanding of the relevance of planning to modern society, the potential of a new land use planning system will be undermined. During my meetings with key stakeholders it is evident that the case for a cultural change was broadly embraced, and is seen as involving a change in attitudes, behaviours and mind-set extended across the board by all those involved in the land use planning system – be they, architects, planners, business, builders and developers, politicians, educators or citizens.

This is an important starting point. The weakness of the land use planning to date rests on a misunderstanding of its purpose, remit and operation; ineffective relationships between the various stakeholders in using the planning system to mediate, determine and deliver acceptable outcomes; and a perceived inequality of opportunity to influence the direction of change. The ability of the planning system to protect the environment or direct development has been subject to capture by specific interests.

An inadequate strategic context to local planning decision-making may result in particular interests asserting their claims in a way that is unhelpful to the planning procedures in place. It is important then that the objectives of the land use planning are as clear and as unambiguous as possible whilst providing strategic leadership and respecting local circumstances. The nature and degree of cultural change required will differ across stakeholders and organisations and take time to bed in. It will require appropriate resourcing. In educational and professional development terms, new skills and capacities are required. As significantly, however, business, builders and developers need to recognise the value of working with planning and not against it. Politicians and elected members need to debate planning for the longer term, and seek to resolve the trade-offs that are inevitably involved. This suggests that the intended reform of land use planning in Northern Ireland involves a more fundamental change in engaging with planning than simply reconfiguring its administrative arrangements. This is an ambitious programme.

Reform of the land use planning system

The principal intention of the reform of the land use planning system is to improve its efficiency and effectiveness in meeting the needs of different communities and localities across Northern Ireland. These

are general ambitions and are part of a wider concern with devising governance arrangements which are appropriate to the management of change. There are a number of more detailed objectives of the land use planning reform process.

These are: to secure improvements in the operation of the land use planning system so that it supports meeting the future economic and social needs of Northern Ireland; and, that it manages development in a sustainable way particularly with respect to large, complex or strategic development proposals. Reform is intended to create a land use planning system which is delivered at the appropriate level; and, which takes account of regionally significant, major, local or minor development applications across Northern Ireland. Importantly, the planning reforms are to streamline arrangements so as to improve the effectiveness, efficiency and quality of the outcomes of the land use planning system; and to allow for full civic engagement in its decision-making processes to ensure confidence in the system. The latter is a particularly important element in the reform of land use planning. The intended planning reforms are significant in three principal respects.

First, reform represents the deliberate transition from the existing land use planning system to new positive management arrangements. Current land use planning may be characterised as broadly negative or regulatory in character, epitomised by the term development control. This is perceived as inhibiting land and property development proposals. The modern articulation of land use planning, however, is concerned with the positive management of land and property development so as to meet the strategic policy ambitions for the well-being of Northern Ireland. Thus, for example, development control would be replaced with development management. This would be more than a simple change in nomenclature and would represent a new way of enabling appropriate land and property development to be achieved in Northern Ireland's public interest. As all stakeholders engage with land use planning in a positive way so development can be delivered to the appropriate standards and in a way that takes account of the various social, environmental and economic interest involved.

Second, land use planning reform is inextricably bound up with the ongoing Review of Public Administration which would create new local authorities, provide a new set of relationships between central and local governance, and involve the transfer of land use planning responsibilities to the new local authorities. This would represent a shift from a centralised land use planning system to decentralised arrangements where land use planning (with respect to both the existing development planning and development control responsibilities) will be more firmly located within local communities and decision-making. In effect, Northern Ireland will be adopting a model of local planning and governance already established elsewhere in the UK and the Republic of Ireland.

Third, the new land use planning system will serve as an important local delivery mechanism for regional

strategic planning implementation which seeks to represent and secure the wider public interest in Northern Ireland. Elsewhere in the UK and in the Republic of Ireland, changes are being made to land use planning arrangements to reinforce the strategic spatial planning dimension. Whilst these are taking different forms the generic purpose is to link broader political objectives relating to economic development, community regeneration, environmental management and sustainable development to the circumstances in local communities. This would be achieved through an efficient, effective and transparent administration of land use planning.

Here, it is important to assert that a regional spatial planning framework would provide a context for local authority decision making so as to secure greater consistency across Northern Ireland as whole. Regional strategic planning would provide an important role in interpreting the broader high level policy objectives into spatial planning action. It would articulate a practical overview of the implementation of the Regional Strategy and its constituent regional spatial development strategy, and set out practical steps to secure its implementation in space and places of providing a strategic framework in which local planning processes can act in a consistent manner. Regional strategic planning would provide practical guidance for public sector investment tailored around specified regional infrastructure investment ambitions and intentions, provide a clear indication of public sector support for this regional public interest and, importantly, promote public and private sector collaboration and to explain the nature of any strategic trade-offs that might be involved. In practical terms, regional strategic planning would provide the practical context to development planning by local authorities and to inform development management and establish a longer term action plan for infrastructure investment and provision.

Suggested medium and longer term reforms in Northern Ireland

Drawing on the evidence available, discussions with key stakeholders and experience elsewhere in devising appropriate modern land use planning for the modern world suggests a number of ways forward for Northern Ireland. My thinking is driven by the case for securing greater consistency and confidence in the land use planning system. It seeks to secure efficiency gains through front-loading the system across the board – and that of greater effectiveness by raising standards, creating appropriate dialogues and executing robust enforcement of land and property development in the public interest.

The proposed reforms rest on the creation of a planning hierarchy in Northern Ireland. Devising a hierarchy would involve a stronger, more strategic regional planning framework within which the autonomy and discretion of local authority land use planning can be discharged. This would seek to allow appropriate economic development, community and environmental interests to be accommodated through a cascade effect. It seeks to assert a Northern Ireland wide public interest whilst allowing for the local mediation of environmental, social and economic matters. It seeks to allow for an appropriate balance of

regional and local perspectives on agendas for economic growth, land and property development, environmental management and sustainable development. In this way, strategic regional and local planning considerations would be integrated to achieve consistency and confidence in the system.

A planning hierarchy would provide a proportionate framework for development planning and development management. This would allow for a more effective allocation of the planning resource to different categories of land and property development proposals. It would allow for the regional and major development proposals to be dealt with appropriately, whilst minor and local proposals could be processed more expeditiously. This would allow efficiency gains to be achieved, and would promote the overall effectiveness of the new land use planning system. It would rest on front-loading of stakeholder engagement in both the preparation of development plans, and in the processes of development management. It is important that all involved in the new land use planning system work to achieve efficiency in the decision making arrangements.

There are four aspects of the proposed direction of reform.

1 A new land use planning hierarchy

Land use planning does not operate in a vacuum. A criticism of the current land use planning system, for example, is that it is not sufficiently connected to the political and economic ambitions for Northern Ireland. Here it is important that land use planning acts as a delivery vehicle for the politically agreed priorities which essentially assert and reflect Northern Ireland's public interest. The Programme for Government must therefore be the starting point which informs the spirit and purpose of the new land use planning system. Its emphasis on economic development priorities with social and environmental well-being establishes an important direction for land use planning. Across Northern Ireland, the Programme for Government sets out what is understood as the public interest. There is a clear need for such priorities to be asserted in the context of the land use planning system, and the wider political frame should provide a clear steer where different interests need to be mediated in different localities across Northern Ireland.

In this new political and policy context, land use planning must provide a positive framework to expedite the wider public interest in practical terms in Northern Ireland. Moreover, this must be achieved through more efficient decision making and effective outcomes whilst ensuring appropriate engagement and debate, and with reference to existing and emerging social needs and environmental designations. To achieve this new role, the land use planning must be configured around a new strategic framework which provides for greater certainty and consistency for all those involved in the land use planning system, and which clearly links to the regional and local interests involved.

Thus, there is a case for a robust and confident Regional Strategy. This would provide a high level

integration of the political ambitions and priorities for economic development, sustainable development, environmental management and community cohesion. This would be more than a simple catalogue of those concerns, but would seek to demonstrate the potential trade-offs and weightings which would be necessary in Northern Ireland's overall regional public interest. It would show clearly what the different institutional responsibilities were, and point to the joint working and integrated activities required to facilitate that regional public interest. This would set the context for the operational activities of the land use planning system.

A new regional strategy should be able to adapt to the changing global and international circumstances in which it operates, embrace a wider, higher level connectivity between different public policy areas and institutional capacities, and seek to mediate between them so as to provide guidance for decision makers on the ground. A new Regional Strategy would map out a broad spatial development strategy for Northern Ireland providing broad brush indicative planning for the management of economic, social and environmental change. This would articulate the broad areas for investment and development to meet Northern Ireland economic development ambitions.

A Regional Strategy needs to set out a robust Regional Spatial Planning agenda. This would translate the Regional Strategy into strategic action plans which will inform the preparation of local development plans by local authorities. It would inform the development management decision making at the local level so that individual development proposals are not assessed in isolation from a critical understanding of what is taking place elsewhere. Significantly, and crucially, Regional Spatial Planning would assert regionally significant infrastructure projects which are important to Northern Ireland. These would seek to articulate the Regional Strategy into effective action agendas. This hierarchy would provide a regional strategic framework within which local authorities would set out their local planning and development aspirations. The test of the Regional Strategy and the Regional Spatial Planning arrangements is that of regional significance. Such infrastructure projects would take forward the overall map of Northern Ireland's sustainable economic development within the strategic priorities for social and environmental well-being. This framework envisages a strategic cascade for positive land use planning in Northern Ireland.

The emphasis on regional strategic thinking is important in promoting the expected efficiency and effectiveness outcomes, and in securing greater consistency and certainty for Northern Ireland's well-being. The regional institutional capacity would be further enhanced by two further elements: Strategic Projects and Strategic Planning Policy Statements. Both of these currently exist and would form part of the strategic planning framework for Northern Ireland.

An important innovation in Northern Ireland's prevailing land use planning system is the establishing of

the Strategic Projects Group in the Department of the Environment planning Service. This is to be applauded as it represents an important way of ensuring effective implementation of key infrastructure and development projects which are of regional strategic importance and providing for the handling of an individual land and property development proposal which raises regionally important matters. This would provide an important support to the new local planning authorities, and create consistency around the management of regionally strategic developments. Such institutional capacity asserts the importance of strategic thinking and priorities in the new land use planning system.

A critical element of the existing land use planning system is the catalogue of Planning Policy Statements. These are an essential element of a modern land use planning system. Experience elsewhere in the UK reveals how effective such strategic policy guidance can be in responding to new land use planning issues, in responding to changing circumstances by revising priorities, and in supporting decision making with respect to development proposals.

It is proposed that the Planning Policy Statements include statements of best practice to guide local planning authorities in the translation of the strategic priorities into effect. It is also recommended that the Statements set out the evidence on which the policy has been formulated and prioritised. This would promote a better understanding of what the strategic land use planning is seeking to achieve. It is imperative therefore that the Planning Policy Statements retain their role in the reformed land use planning system, and indeed, are strengthened to provide the robustness for local authority planning activities..

Local authorities will assume responsibility for the preparation of development plans. This is the critical articulation of the local public interest, and will be informed and supported by the regional strategic planning arrangements noted above. The preparation of the new local development plans will be informed by the existing statutory development plan documents, and go on to represent the interests of the new local jurisdiction. It is important that the new local development plans offer short, concise statements of the local public interest. Their purpose is to guide the decision making for land and property development proposals. They will benefit from the robust regional planning and policy framework established at central government level, and to which they will have contributed with respect to their own identities.

The new local development plans will need to provide a clear statement of intent for the localities which they serve. The tendency to providing over-detailed and lengthy documents must be resisted. New formats of development planning could be explored. A development plan, for example, could comprise a strategic statement of the planning and development objectives for the area in question, based on a clear understanding of links to other local authority policies, infrastructure capacity, and the weighting of social, environment and economic development priorities appropriate to local circumstances. The

strategic stamen would include the policies appropriate for the locality, and indicate broad intentions for presumptions in favour and against development which are held to represent the local public interest.

Complementary elements of the development plan might include master planning for those areas where change, investment and development is to be encourage, and the preparation of supplementary planning guidance for the development plan to address planning and development issues across the local authority jurisdiction. This is an opportunity to devise new forms of development planning which are ‘fleet of foot’ in setting out the anticipated development morphology for an area, and which can respond to changing circumstances as required. The purpose of the local development plan is to provide strategic leadership and indicative guidance so as to inform the development management responsibilities of the local authority.

Development management then provides the execution of the new land use planning hierarchy. Its purpose would be to provide the positive arrangements to facilitate appropriate decision making in the local public interest, informed by the regional public interest, the development plan and other material considerations. Development management would seek to deliver the intended efficiency, effectiveness and civil engagement objectives of the reforms. This would be better achieved through a proportionate approach to development management, which categorises land and property development proposals into an appropriate decision making framework. This would distinguish between regionally significant, major, and local scales of development proposal and trigger appropriate decision-making arrangements

Each category of land and property development proposal would be dealt with appropriately so as to address their particular implications, scale and complexities for the local public interest. By explicitly acknowledging the differentiated impacts of scale and complexity and targeting the land use planning resource accordingly, then greater efficiencies would follow. Different arrangements for pre-application discussions, key consultations decision-making, and appeal would prevail at each level.

At the regional level, a specific development proposal would be of strategic significance for Northern Ireland as a whole. This would follow the current provisions set out under Article 31. The developer would be expected to engage with regional interests and local communities early in the development application process. Key consultees would be included in a team approach within the Department of the Environment. In light of the strategic significance of such strategic land and property development proposals, there could be the possible option of a public inquiry by the Planning Appeals Commission. The report would go to the Department of the Environment.

At the major level, for example, pre-application discussions may involve a development agreement between the developer and planning authority over the time period for a decision. The developer would be expected to engage with local communities early in the process to explain the development proposal,

and address issues and representations with respect to the local public interest. Key consultees would be included in a team approach to development management in ensuring that all the likely implications of the development proposal are taken into account. Given the likely complexity of such development proposals the appeal route may be through the traditional Planning Appeals Commission.

At the local category of development proposal developers would be encouraged through best practice to have local engagement with communities to explain and discuss the nature of the development scheme. Councils would be encouraged to delegate decisions on non-contentious proposals to officers. More contentious applications would go to planning committee, and in the future there may be scope to consider whether appeals against decisions might be dealt with by a local review boards rather than the Planning Appeals Commission. Within this category for very minor applications the extension of permitted development rights would divert applications from the development management process should be considered so as to secure a proportionate approach to decision making.

The emphasis on strategic thinking and proportionate planning would provide a more streamlined land use planning system with the regional and local public interests being brought together into a coherent framework. The three components of the regional strategic planning framework would ensure greater consistency and fluency with the higher level public policy community and allow this to be translated in a more certain way into practical action at the local levels. Regional spatial planning in this way provides a context within which local authorities can then determine their own priorities within their own circumstances. Importantly, this approach would seek to facilitate the appropriate balance of regional strategic policy priorities with local autonomy and responsibility.

2 *New land use planning processes*

Here the emphasis would be on ‘front loading’ the system. This approach would make the Northern Ireland arrangements similar in thinking to the Scottish model which seeks to achieve efficiency gains by early discussion, engagement and agreement. The position in the Republic of Ireland is very different, and its arrangements favour engagement on a relatively more reactive basis which takes place later in the equivalent regulatory process. The proposed reform of land use planning in Northern Ireland is seeking to devise a positive set of arrangements to promote efficiency early in the decision making process.

It is important that all intending householders and developers engage with the planning system as early as possible. At the local level, a greater understanding of land and property development agendas, relations between builders and developers and land use planners, the nature of conflicts and the infrastructure capacity could be better achieved by establishing local forums made of the appropriate interests. These could provide a very useful sounding board to explain particular issues and concerns, and would defuse polarised debates and stand-offs which may take place from time to time. Such discussion groups would

provide valuable intelligence to the land use planning system about the broad intentions of developers, and encourage the latter to engage more directly with the communities in which they are and intended to be active.

At all levels of the proportionate planning system there is a clear role for pre-application discussions, at the very minor level this could simply be between the developer and neighbours. Certainly for the major land and property development proposals these would be an essential part of the new land use planning system. Yet, smaller householder development proposals would benefit from earlier engagement with the planning system this would promote a better understanding of what is required in a positive development management regime. Improved understanding of what is required by prospective applicants should be accompanied by higher quality applications so that their validity allows them to proceed more efficiently through the system. This makes the very important point that land use planning reform is not simply about changes to the planning system. It is about changed attitudes and behaviours by all concerned – at whatever level in the proposed planning hierarchy. I return to this point below with respect to cultures and capacities in the land use planning system.

Public engagement in the processes of development planning and development management is an essential part of the process of change. Reference has been made to the front-loading of involvement by developers and householders. This should apply to the preparation of development plans. It is suggested that new ways of promoting engagement go alongside the new land use planning system. There is a tendency to promote development plans, for example, in a relatively passive way. More attention should be made to championing the importance of such local statutory documents and precipitating courteous and informed debates about the future well-being of localities and communities. There should be more attention paid to explanation and debate. More often than not, polarised opposition to proposals whether in plans or individual development applications arise because of a lack of understanding of what is being considered.

In this context, the importance of a culture change to enable the land use planning reforms to take place is critical.

3 *Changing rights and responsibilities in land use planning*

If land use planning is to be considered important as a delivery mechanism for promoting the public interest in Northern Ireland, and if the reforms and the transfer of responsibilities are to be treated seriously and with respect for the idea of a broader public interest, then an active engagement with culture change is required. This will involve necessary changes in the rights and responsibilities associated with land, environment and the public interest which will be required in facilitating the reforms and in enabling a new land use planning system to operate. There has also to be an active acknowledgement of

the capacity issues associated with the implementation of the transfer of local land use planning functions to local authorities.

In Scotland, reference to culture change has been linked to the idea of realising potential in planning and is the subject of a more deliberate campaign of awareness raising and discussion about the new roles to be played by all those involved in planning and development. This is an important pre-requisite for the land use planning reforms, and subsequently their implementation.

It is recommended that considerable energy be devoted to promoting the idea of land use planning reform. This will take place through the conventional consultation processes. Yet, it needs to be addressed on a much wider canvas. First, there needs to be a widely case programme of education about the role and purpose of land use planning at large. There needs to be a societal recognition that the land use planning system is a force for good, and for achieving the overall well-being of Northern Ireland. There needs to be a deeper appreciation by civil society of what land use planning seeks to do.

This should then prepare individuals, builders, developers or households, as well as the various environmental and social interests involved of the difficult trade-offs that are involved in managing development in the wider public interest. There needs to be a real appreciation of the complexities involved, and that land use planning sometimes encourages development and sometimes discourages development. The reference point is the perceived public interest – whether at the regional, local or site-specific levels. A programme of education and understanding of land use planning is a necessary starting point for the reforms.

4 *Capacities in implementing planning reform*

Capacity issues across all stakeholders and the promotion of a better understanding of the spirit and purpose of land use planning. There is a real issue around capacity in the land use planning system. There are a number of aspects to this as was pointed out by several stakeholders. Capacity concerns relate to the ability of the land use planning system to deliver the requirements around regional spatial planning, development plan preparation and development management. At a generic level, this rests on the resource required to put the land use planning reforms into effect.

There is a need to take into account from the outset, the issues associated with implementation of the land use planning reforms. On the one hand, there will be a transitional phase which must allow for a number of contingencies including the introduction of the Review of Public Administration, the promotion of local government learning and involvement, and active engagement by the public at large and by stakeholders in land and property development activities, and in the new devolved planning communities. In the latter context, for example, there will be a learning process as the existing relations between

development management and development planning are reconfigured. This confirms the need for a strong strategic context to guide local authority land use planning.

There needs to be a strong vertical integration between the regional economic, social and environmental objectives for Northern Ireland, the associated regional spatial planning priorities around infrastructure projects and thematic policy guidelines and local development planning. There needs to be robust horizontal integration between the strategic and local planning processes and the decision making associated with development management, infrastructure provision and enforcement in specific localities.

The period of transition needs to be taken into account. Many aspects of the planning reform process can be put into effect as good practice and can be promoted across the new land use planning system.

Reference to pre-application discussions is a case in point, and would contribute to streamlined decision making. Proportionate arrangements by categories of development which attract appropriate time and energy is another approach that can promote advances in the short term. Others, however, such as those relating to strategic or spatial planning agendas, the new development plans and the development management arrangements will need to be phased in so as to ensure their efficient and effective fit. Care would need to be taken to avoid a radical change in planning structures leading to protracted or uncertain decision making.

At a more specific level, it includes issues relating to the management of the land use planning system, links to planning schools in Northern Ireland and elsewhere to ensure a sustainable supply of graduate planners, Continuing Professional Development and training for the ongoing skill enhancement of elected members planning offers and their continuing engagement with best practice promoted by central government or local planning authorities. These are related to the broader proposals for championing the new land use planning through media debates, education and political leadership.

Evidence from Divisional Planning Offices and the Strategic Projects Group in the Planning Service demonstrates convincingly the advantages to be gained from creating teams to manage the land use planning system. These provide for mutual support and learning, and can offer opportunities for inter-departmental working in the administration of planning. Planning teams would also encourage mentoring and professional development of younger planners and promote greater confidence in their professional working. This would complement a necessary programme of ongoing training and continuing professional development so as to enhance the capacity of local planning departments.

The supply of new planners needs to be considered as part of the overall reform of land use planning. It is important, for example, and as a first step, that material dialogues take place with the planning schools in Northern Ireland (Queen's University Belfast and the University of Ulster). Discussions should take place around the promotion of land use planning as a career to attract young people, and to encourage a better

understanding of the opportunities afforded graduates by the new land use planning system across Northern Ireland.

Conclusions

In general, it is widely recognised that the land use planning system has served its purpose well. It has ensured that, by and large, land and property development has taken place in an orderly and appropriate manner. Appropriate allocation of residential, retailing, commercial and industrial land has taken place. Attention has been paid to standards of siting, design and layouts of proposed developments. At the same time, the land use planning has attempted to provide opportunities for civil engagement and participation in its decision making processes. The safeguarding of environmental and natural heritage forms an integral part of the land use planning system. It seeks to mediate the various interests involved. The worst excesses of unregulated land and property development or unmanaged economic or urban growth have been avoided. Valuable natural and built environments have been protected and managed in the public interest.

Yet, as the pace and complexities of change and development have increased so the land use planning requires modernisation to ensure that it can continue to discharge its statutory responsibilities and meet the expectations of different communities. It is important to acknowledge that the broad context within which land use planning operates has changed dramatically.

There are now emergent views and political priorities concerning economic development, the environmental issues associated with climate change and sustainable development, social and community concerns regarding infrastructure provision and the provision of affordable housing. In short, the agendas that the land use planning system faces have been transformed in recent times. A complicating factor is that none of these issues stand alone – thus sustainable development and climate change are as much an economic and social justice matter as being simply environmental in nature. The challenge for society as a whole and for land use planning in particular is how to reconcile these very complex and layered questions.

The outcome of the Review of Public Administration is critical to the execution of the planning reform agenda as it will create a new institutional framework for the devolution of land use planning to local authorities. Moreover, it will create a new set of working relations between and within the Northern Ireland Assembly Government, its different Departments, local authorities and the operation of land use planning decision making on the ground. Here then particular attention needs to be paid to the intended implementation of the Review of Public Administration and how this maps to the preparation of the new local development plans and the associated development management functions. These are inextricably interlinked. These also require a new understanding of the spirit and purpose of land use planning in

seeking to secure and reflect the public interest in Northern Ireland.

This deliberate shift in thinking will have to take place at a number of scales, in different land and property development, community, environment and economic development sectors, and by different stakeholders or advocates with respect to promoting or resisting development proposals. New strategic relations will be required so that the Northern Ireland public interest is asserted alongside more local considerations.

It is important to reflect that the arguments for reform of the land use planning are not confined to Northern Ireland. Elsewhere in the UK, and perhaps accentuated by devolution, considerable energy is being expended on seeking to reform and modernise different aspect of land use planning. In general terms, the justification for such reforms are broadly the same, and there are lessons to be drawn from the different experiences, yet any reform in Northern Ireland has to explicitly take account of its very particular characteristics.

Whilst many key stakeholders recognise that reform of the land use planning system is a legitimate ambition to address the various criticisms of its current performance there is a countervailing aspect. My very strong impression is that all stakeholders are aware of the need for a robust land use planning system, are very supportive of the planning reform agenda, and moreover are committed to working with it. It is clear that all stakeholders acknowledge the advantages to flow from reforms and that these have to be supported as much as possible.

There is a tremendous sense of goodwill which is evident within the different communities of interest and this requires careful nurturing. It is an opportunity to build on such goodwill and positive thinking so as to be able to use it as an asset in facilitating change and to ensure that it is not disappointed and becomes a negative force which weakens the momentum of land use planning reform in Northern Ireland.

The land use planning reforms will have to make a demonstrable and acknowledged difference – and it will have to address a number of critical features of the existing system, and anticipate implementation of the reformed system. There are two critical dimensions. These may be considered as the ‘before’ and ‘after’ of the intended land use planning reform.

First, critical attention has to be paid to changing and challenging existing practices, assumptions, behaviours, and attitudes to the right to land and property development. This is long established and carries with it powerful cultural arguments and expectations, yet in runs counter to what a modern society needs in terms of ensuring orderly and managed land and property development which serves the overall public interest. In practical terms the land use planning reforms will enable positive patronage to prevail as energies are put into the forward planning processes and the front-loaded development management

arrangements.

In particular, there is a need to promote a wider appreciation of the public interest in land use planning, and the need to mediate between competing interests and economic, community and environmental values in different localities. The management of the reform process is important here, and the different ways that must be deployed to address it. Care needs to be taken in promoting a parallel but integral process of education at large through the media, through appropriate debates and political engagement.

In effect, land use planning needs to be placed higher on the political agenda. It needs to be championed as a means by which Northern Ireland, its constituent places and individual localities can promote well being and the public interest. It has to be debated loud and clear as land use planning deals with difficult issues and trade-offs – such as the elusive relationships between economic development and employment creation versus environmental protection and enhancement. There needs to be a concerted programme of discussion and debate which seeks to avoid polarised positions, but which promotes an explicit and engaged recognition that different scales of interest are being addressed. Here, the concern is with the economic stability of Northern Ireland. There, mediating the environmental requirements for sensitive locales. Land use planning can then become the mechanism for mediating those difficult decisions.

Finally, with the broader shifts in thinking and behaviours and with the proposed move to local authority planning, the proposed land use planning reforms can achieve the intended efficiency, effectiveness and engagement outcomes. It is important, however, to recognise that the context in which land use planning operates and will operate is very complex and subject to uncertain global and international pressures. These are now forming a familiar catalogue of issues. Changes in global financial markets, climate change and the risks of flooding and coastal erosion, food price inflation and the implications for agriculture are all potentially catastrophic for national, regional and local communities. Their common characteristic is that they will all impact on the environment and land use and housing, industrial and commercial developments in some way. Responding to these pressures, adapting to their regional and local impacts and preparing new ways to secure a broader social well-being will fall in considerable part to the land use planning system. The role of land use planning in the modern world has never been more critical in enabling the clear articulation of the Northern Ireland public interest.

Annex 2

Summary of key Review of Public Administration (RPA) changes to the planning system

District Council Functions

District councils will be responsible for delivering the following planning functions:-

- Local Development Planning (see chapter 3). District councils will also be able to work together to produce local development plans that cover more than one council area, where appropriate;
- Development Management - determining the vast majority of planning applications (except for a small number of applications which are of regional significance) (see chapter 4);
- processing applications for non-urgent development on Crown land (non-regionally significant applications or applications which do not raise national security issues);
- entering into planning agreements on district council determined applications;
- enforcement – enforcing against all breaches of planning control, including unauthorised development, breaches of listed building, conservation area, hazardous substances, trees, advertisement control and issuing certificates of lawful use or development;
- temporary listing of buildings of special architectural or historic interest;
- non-statutory local listing of buildings of architectural or historic interest;
- control of demolition or works to listed buildings (following consultation with the Department);
- conservation area designation;
- control of demolition in conservation areas;
- urgent works to preserve listed buildings and buildings in conservation areas;
- determining hazardous substances consent applications;
- applying tree preservation orders;
- determining tree preservation order consent applications;
- preservation of trees in conservation areas;
- control of advertisements;
- review of old minerals permissions (ROMPs);
- issuing completion notices;

- preparing simplified planning zone schemes;
- revoking, modifying or discontinuing planning permissions and consents;
- compensation liabilities arising from district council functions (mainly enforcement, listed buildings control, revocation, modification and discontinuance);
- responding to purchase and blight notices;
- issuing certificates of alternative development value;
- maintaining a register of applications, consents, notices, certificates etc.

Departmental Functions

The Department will be responsible for:-

- planning legislation, policy and guidance;
- processing regionally significant planning applications (see chapter 4 paragraphs 4.14 & 4.33 - 4.46);
- determining applications to demolish listed buildings or buildings in a conservation area, where the district council is the applicant;
- determining applications for hazardous substances consent, where the applicant is the district council;
- statutory listing of buildings of special architectural or historic interest (including confirmation of temporary listing by district councils), although, as with councils, the Department will have powers to issue urgent works notices;
- providing grants and loans for the preservation and acquisition of listed buildings;
- providing expert consultation responses to proposals for the demolition or alteration of listed buildings;
- determining applications for Crown or other development where national security issues are raised or urgent works are necessary;
- fee setting, funding (see chapter 8 paragraphs. 8.16 – 8.19) and the power to make grants and bursaries;
- holding public inquiries for any of its planning functions.

Oversight

The Department will be responsible for the following oversight roles:-

- Audit, inspection and performance management of district council planning functions (see chapter 8 paragraphs. 8.20 – 8.22);

- addressing potential conflict of interest issues: i.e. development in which the district council has an interest;
- scrutiny of district council prepared local development plans to ensure they align with central government plans, policies and guidance; (see chapter 3 paragraphs 3.31 - 3.41); and
- scrutiny of simplified planning zone schemes.

The Department will also have the following reserve powers to take action where it believes a district council has failed to take action to:-

- revoke or modify planning permissions or listed building consents, following consultation with the relevant district council;
- discontinue use of land or buildings, or deemed advertising consent;
- issue completion notices;
- designate conservation areas;
- apply tree preservation orders
- issue enforcement or stop notices;
- create or revoke areas of special advertisement control;

as well as the power to call-in applications for listed building, hazardous substances and conservation area consents and review of old minerals permissions (ROMPs).

These powers would be used selectively and sparingly in exceptional circumstances where issues of exceptional significance, controversy or of more than local significance are raised and normally only after consultation has taken place with the relevant council.

Working with RPA Structures

As part of the preparation for the return of planning functions to district councils we will be working closely with local government through the RPA implementation structures.

Annex 3

Planning Policy Statements

PPS 1 - General Principles	Mar 98
PPS 2 - Planning and Nature Conservation	Jun 97
PPS 3 (Revised) - Access, Movement and Parking	Feb 05
PPS 3 - Clarification of Policy AMP 3	Oct 06
PPS 4 - Industrial Development	Mar 97
PPS 5 - Retailing and Town Centres	Jun 96
PPS 6 - Planning, Archaeology and the Built Heritage	Mar 99
PPS 6 (Addendum) - Areas of Townscape Character	Aug 05
PPS 7 - Quality Residential Environments	Jun 01
PPS 7 (Addendum) - Residential Extensions and Alterations	Mar 08
PPS 8 - Open Space, Sport and Outdoor Recreation	Feb 04
PPS 9 - The Enforcement of Planning Control	Mar 00
PPS 10 - Telecommunications	Apr 02
PPS 11 - Planning and Waste Management	Dec 02
PPS 12 - Housing in Settlements	July 05
PPS 13 - Transportation and Land Use	Feb 05
PPS 15 - Planning and Flood Risk	Jun 06
PPS 17 - Control of Outdoor Advertisements	Mar 06

Responsibility for PPS 12 and PPS 13 transferred from DRD to DOE on 15 January 2008 and, at that stage, these documents were adopted by DOE under the powers conferred by Article 3 of the Planning (Northern Ireland) Order 1991. The Department is committed to supporting the work of DSD in

addressing housing need and an important element of this work will be an addendum to PPS 12.

There are also a number of Planning Policy Statements at consultation draft stage and these are listed in the table below.

Planning Policy Statements - Consultation Drafts

PPS 4 (Revised) - Industry, Business and Distribution	Jan 03
PPS 5 (Revised) - Retailing, Town Centres and Commercial Leisure Developments	July 06
PPS 21 - Sustainable Development in the Countryside	Nov 08
PPS 18 - Renewable Energy	Nov 07

Following legal proceedings, responsibility for rural planning policy transferred from DRD to DOE on 25 October 2007. Under the powers conferred by Article 3 of the Planning (Northern Ireland) Order 1991 DOE reissued Draft PPS 14 on this date, accompanied by a Statement made by the Minister of the Environment, giving the draft policy immediate effect. DOE subsequently issued revised draft rural planning policy, Draft PPS 21, on 25 November 2008 accompanied by a further Ministerial Statement withdrawing Draft PPS 14 and giving the new Draft PPS 21 immediate effect.

Responsibility for Draft PPS 5 also transferred from DRD to DOE on 15 January 2008 and this document was also adopted by DOE under the powers conferred by Article 3 of the Planning (Northern Ireland) Order 1991.

Annex 4

Definition of ‘Soundness’ - England

Planning Policy Statement 12 (p.20) states:

To be “sound” a core strategy should be JUSTIFIED, EFFECTIVE and consistent with NATIONAL POLICY.

“Justified” means that the document must be:

- founded on a robust and credible evidence base;
- the most appropriate strategy when considered against the reasonable Alternatives.

“Effective” means that the document must be:

- deliverable;
- flexible;
- able to be monitored.

Annex 5

Soundness Tests – Wales

Procedural Test

- P1** The plan has been prepared in accordance with the Delivery Agreement including the Community Involvement Scheme.
- P2** The plan and its policies have been subjected to Sustainability Appraisal, including Strategic Environmental Assessment.

Consistency Tests

- C1** It is a land use plan which has regard to other relevant plans, policies and strategies relating to the area or to adjoining areas.
- C2** It has regard to national policy
- C3** It has regard to the Wales Spatial Plan
- C4** It has regard to the relevant Community Strategy/Strategies/National Park Management Plan.

Coherence and Effectiveness Tests

- CE1** The plan sets out a coherent strategy from which its policies and allocations logically flow and, where cross boundary issues are relevant, it is compatible with the development plans prepared by neighbouring authorities.
- CE2** The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust and credible evidence base.
- CE3** There are clear mechanisms for implementation and monitoring.
- CE4** It is reasonably flexible to enable it to deal with changing circumstances.

Annex 6

Sustainability Appraisal

Structure of report	Information to include
Components Making up the Environmental Report	Table sign-posting the components of the SA Report which make up the Environmental Report for the purposes of the SEA Directive
Summary and Outcomes	<ul style="list-style-type: none"> 1.1 Non-technical summary 1.2 A statement of the likely significant effects of the plan 1.3 Statement on the difference the process has made to date 1.4 How to comment on the report
Appraisal Methodology	<ul style="list-style-type: none"> 2.1 Approach adopted to the SA 2.2 When the SA was carried out 2.3 Who carried out the SA 2.4 Who was consulted, when and how 2.5 Difficulties encountered in compiling information or carrying out the assessment
Background	<ul style="list-style-type: none"> 3.1 Purpose of the SA and the SA Report 3.2 Plan objectives and outline of contents 3.3 Compliance with the SEA Directive/ Regulations
Sustainability objectives, baseline and context	<ul style="list-style-type: none"> 4.1 Links to other policies, plans and programmes and sustainability objectives and how these have been taken into account 4.2 Description of the social, environmental and economic baseline characteristics and the predicted future baseline

	<p>4.3 Main social, environmental and economic issues and problems identified</p> <p>4.4 Limitations of the information, assumptions made etc.</p> <p>4.5 The SA framework, including objectives, targets and indicators</p>
Plan issues and options	<p>5.1 Main strategic options considered and how they were identified</p> <p>5.2 Comparison of the social, environmental and economic effects of the options</p> <p>5.3 How social, environmental and economic issues were considered in choosing the preferred options</p> <p>5.4 Other options considered, and why these were rejected</p> <p>5.5 Any proposed mitigation measures</p>
Plan policies	<p>6.1 Significant social, environmental and economic effects of the preferred policies</p> <p>6.2 How social, environmental and economic problems were considered in developing the policies and proposals</p> <p>6.3 Proposed mitigation measures</p> <p>6.4 Uncertainties and risks</p>
Implementation	<p>7.1 Links to other tiers of plans and programmes and the project level (EIA, design guidance etc.)</p> <p>7.2 Proposals for monitoring</p>

Source: Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents, ODPM, November 2005

Annex 7

Planning (Amendment) (NI) Order 2003/Planning Reform (NI) Order 2006

Enforcement Powers

Planning (Amendment) (NI) Order 2003

New Measures

- Planning Contravention Notice to strengthen the power to obtain information.
- Breach of Condition Notice to streamline enforcement procedures for breaches of conditions.
- Injunctions to give the Department an express power to apply to the High Court for an injunction to prevent any actual or threatened breach of planning control.

Strengthening Measures

- An increase in the level of fine from £5,000 to £30,000 for non-compliance with the steps required to remedy a breach of planning control as specified by an Enforcement Notice.
- Allowing for the first time for a person to be convicted on indictment for non-compliance with the steps required by an enforcement notice. In such a case there would be no maximum limit to a fine that can be imposed. In determining the level of fine to be imposed on a person convicted either summarily or on indictment, the Court must have regard to any financial benefit that has accrued or appears likely to accrue to him in consequence of the offence.
- In the case of a person guilty of an offence relating to the breach of a Listed Building Enforcement Notice, in addition to the increased level of fine, a further deterrent of being able to impose a custodial sentence of up to 6 months on a person found guilty on summary conviction or up to 2 years in the case of a person found guilty on conviction on indictment.
- In the case of the direct criminal offence of undertaking unauthorised works for the demolition, alteration or extension of a listed building the same maximum levels of fines and custodial sentences apply.
- The introduction of a new offence, punishable on summary conviction by a fine not exceeding level 3 on the standard scale, currently £1,000, for wilfully obstructing anyone authorised to carry out works to secure compliance with an enforcement notice.
- When urgent action is required, a Stop Notice able to take effect within a shorter period, immediately if necessary, and penalties for non-compliance with a Stop Notice have parity with

those for non-compliance with an enforcement notice.

Planning Reform (NI) Order 2006

- Temporary, stand-alone, Stop Notice powers to halt a breach of planning control for a period of up to 28 days as soon as a breach is identified, enabling the Department to prevent unauthorised development at an early stage without first having had to issue an enforcement notice.
- Increases in the maximum level of fines for unlawful advertisements from level 3 (£1,000) to level 4 (£2,500).

Annex 8

Offences under Planning Law

There are a number of offence provisions in planning legislation, some of which are immediate criminal offences* as opposed to, for example, an offence for non-compliance with an enforcement notice. They include:

Listed Buildings

- Unauthorised demolition, alteration or extension work to a listed building (Planning (NI) Order 1991 Article 44)*;
- Failure to comply with any condition of a listed building consent (Planning (NI) Order 1991 Article 44(5));
- Failure to comply with Listed Buildings Enforcement Notice (Planning (NI) Order 1991 Article 77);

Conservation Areas

- Unauthorised demolition of an unlisted building within a conservation area (Planning (NI) Order 1991 Article 51)*;

Hazardous Substances

- Unauthorised storage or presence of hazardous substances, 1991(Planning (NI) Order 1991 Article 61)*;
- Failure to comply with Hazardous Substances Contravention Notice (Planning (NI) Order 1991 Article 81);

Trees

- Contravening the provisions of a Tree Preservation Order (TPO) (Planning (NI) Order 1991 Article 66)*;
- The removal or felling of trees within a Conservation Area (Planning (NI) Order 1991 Article 66A);

Advertisements

- The displaying of an advertisement without consent (Planning (NI) Order 1991 Article 84)*;

Enforcement Notices

- Non-compliance with an enforcement notice (Planning (NI) Order 1991 Article 72);

Breach of Condition Notices

- Non-compliance with a breach of condition notice (Planning (NI) Order 1991 Article 76A);

Stop Notices

- Contravention of a Temporary Stop Notice (Planning (NI) Order 1991 Article 67G);
- Contravention of a Stop Notice (Planning (NI) Order 1991 Article 73);

Submission Notice

- Failure to comply with a notice requiring a planning application (Planning (NI) Order 1991 Article 23);

Contravention Notice

- Failure to comply with a Planning Contravention Notice (Planning (NI) Order 1991 Article 67 - requiring information about activities on land).

Annex 9

Partial REGULATORY IMPACT ASSESSMENT

PURPOSE AND INTENDED EFFECT

1.1 The Department of the Environment is committed to bringing forward reform to improve the efficiency and effectiveness of the planning system and ensure that it provides transparency in decision making and gives confidence to its users. The reforms are also intended to ensure that the planning functions being transferred to local government are fit for purpose.

Objective

1.2 The reform programme aims to bring about improvements in the planning system to ensure that it:

- supports the future economic and social development needs of Northern Ireland and manages development in a sustainable way, particularly with regard to large, complex or strategic developments;
- is delivered at the right level with the appropriate managed processes for regionally significant, major, local and minor applications;
- has streamlined processes that are effective, efficient and improve the predictability and quality of service delivery; and
- allows full and open consultation and actively engages communities.

1.3 The anticipated outcomes from the proposed reform programme are:

- a more responsive planning system delivered at a local level with enhanced local political accountability;
- a streamlined development plan system, with a more meaningful level of community involvement;
- a more effective development management system with a greater focus given to economically and socially important developments;
- a system more capable of discharging the statutory obligations to have due regard for the need to promote equality of opportunity;
- improved efficiency of processing and greater certainty about timescales;
- a change in the culture of the planning system: seeking to ‘front load’ the development plan consultation process, make plans more strategic in nature, and to facilitate and manage

development, rather than mainly controlling undesirable forms of development;

- stronger collaborative working across a range of stakeholders; and
- a better match of resources and processes to priorities and improved value for money for all users of the planning system through more proportionate decision-making mechanisms.

1.4 These aims and objectives will affect the existing regulatory planning regime which impacts on all stakeholders and users of the system, such as any person / organisation / business etc. that makes a planning application, lodges an appeal, is a consultee, wishes to object to a planning application, wishes to comment on development plans, or breaches planning control.

Background

1.5 With the return of the Northern Ireland Assembly in May 2007 the Executive has made it clear that its top priority for the next three years is to contribute to, and encourage, economic growth. In addition, the Executive has emphasised the importance of delivering a major programme of investment in public infrastructure. In November 2007, the Environment Minister announced a programme of reform for the planning system, with the key aim of bringing forward proposals that would enable the planning system to play its part in delivering on the Executive's priorities.

1.6 As part of the reform programme, the proposed changes take account of, and will give effect to, the Review of Public Administration (RPA) decisions which will see Northern Ireland move away from the current unitary planning system to a two-tier planning system similar to that in England, Scotland, Wales and the Republic of Ireland.

1.7 In addition to the opportunities for reform presented by devolution and the RPA there have been many criticisms of the current planning system and widespread consensus that it needs to be improved. The Department recognises that the planning system needs to be efficient and effective and more responsive to the many challenges facing us today. It is not possible, at this stage, to accurately cost changes to the planning system until decisions have been made on how district councils will discharge their planning functions.

1.8 The Northern Ireland planning system operates under the legislative umbrella of the Planning (NI) Order 1991, as amended and extended by the Planning (Amendment) (NI) Order 2003 and the Planning Reform (NI) Order 2006 and related Orders and Regulations. A number of the proposals in the consultation paper, if adopted, will require changes to primary legislation and new or amended subordinate legislation. A regulatory impact assessment on permitted development rights and small scale renewable energy generation will be commissioned separately as part of their consultancy exercises.

Risk Assessment / Rationale for Government Intervention

- 1.9 If we do not take steps to reform the planning system:
- a. Northern Ireland could be disadvantaged relative to other regions of the United Kingdom and the Republic of Ireland by not having a planning system which meets the needs of a modern society and which is capable of adapting to an increasingly complex legislative and policy framework at European, national and local levels and a changing environmental and economic climate;
 - b. there is a risk that Northern Ireland could miss out on those developments which contribute most to growing our economy through investment and job creation, with an adverse impact upon the Executive's ability to deliver on its key aims and priorities;
 - c. the planning system may fail to discharge its statutory responsibilities and meet the expectations of different communities.

OPTIONS

Option 1

- 2.1 Do Nothing. Leave existing development plan, development control and associated planning processes as they are. The only changes to the planning system, which are not within the scope of this document, would be the minimum changes necessary in accordance with the RPA decision to transfer responsibility for planning functions to local government.

Option 2

- 2.2 Bring forward a package of reforms for key elements of the planning system which will, among other things, improve the efficiency and effectiveness of planning processes. The proposed reforms include:
- Creation of a new local development plan system. This will include changes such as the development plan consisting of two separate but related documents - a Plan Strategy document (incorporating the vision, the objectives and the growth strategy for the area and general strategic policies) and a Site Specific Policies and Proposals document (incorporating the detailed site specific plan policies and proposals for the relevant topic areas). These documents would be published, examined and adopted separately.
 - A new development management system (replacing the current approach to development control) designed around a new planning hierarchy of three categories of applications and new decision-making processes proportionate to the complexity of the application, involving performance agreements, pre-application discussions, pre-application community consultation,

schemes of delegation, pre-determination council hearings, and project management. Article 31 procedures will also be amended to improve the efficiency of the decision-making process for the potentially small category of applications for regionally significant development (50-80 per annum) and reflect the new planning system post-RPA.

- Other changes related to development management processes, to the appeals system, consultation arrangements and so forth, which contribute to the development of streamlined processes that are efficient, effective and improve the predictability and quality of service delivery.

BENEFITS / COSTS

Option 1: Do Nothing

- 3.1 The key benefit of the ‘do nothing’ option is that we would be continuing with a ‘workable’ planning system, with which stakeholders are familiar. Similarly, continuing with the status quo would not lead to any immediate additional costs to businesses, charities etc. However, this approach would perpetuate the perceived defects in the current system which impact upon efficiency, effectiveness, speed, certainty and proportionality of processes etc. It may also ultimately have a detrimental impact on, or result in Northern Ireland losing, development opportunities that contribute most to growing our economy through investment and job creation. It would not therefore take the Department any closer to achieving its aims and objectives and, as a consequence, there would be a risk that the planning system could have a negative impact on the Executive’s ability to meet its objectives in relation to growing the economy.

Option 2: Implement Package of Reforms

- 3.2 This option would involve implementing a package of reforms to improve the efficiency and effectiveness of the planning system and ensure that it provides transparency in decision-making and gives confidence to its users. The proposals would impact on almost every aspect of the planning system, from development plan, to management, enforcement, support functions, appeals, capacity, planning policy and so on.
- 3.3 Reform of the development plan system is one of the most important elements of the changes needed to create a more efficient and effective plan-led system as the business sector and wider community rely on the development plan to set the context for economic development and provide the framework within which development can be pursued. The benefits of the new local development plan system are expected to include:
- more succinct development plans setting out clearer long-term visions for their areas;

- a potential reduction in the timetable for a development plan from approximately 75 months to 40 months, with consequent cost savings;
- economic benefits to developers and the wider economy due to faster plans creating greater certainty and clarity about the determination of planning applications, which in turn assists developers in making investment decisions;
- more responsive and flexible plans with the ability to change site specific policies without changing the plan strategy document;
- better co-ordination of, and greater clarity in relation to, community involvement, leading to earlier and more meaningful community engagement, contributing to better plans with more local ownership; and
- a new, faster and more effective basis for examining plans at independent examination, moving away from the objection-based examination process to one which tests the 'robustness' of the plan. It is anticipated that this will lead to overall cost savings in this stage of the plan process.

3.4 The development management proposals will also significantly benefit the development industry, individual applicants and the economy, as well as enhancing community involvement in key elements of the process. The main benefits expected are that the proposals:

- tailor processes, priorities and allocation of professional and other resources to the scale and complexity of the proposed development;
- allocate greater resources to applications which have a greater economic and social significance and provide for more effective project management of these proposals, thereby eliminating delays and improving the quality and content of applications;
- provide a more effective system of pre-application discussion among developers, their agents, consultees and provide early consultation for local communities;
- ensure that the necessary expertise is applied, particularly by statutory consultees, to the assessment of applications for planning permission, approval or consent;
- speed up the processing of applications by introducing a statutory time limit for statutory consultee responses;
- reduce the number of planning applications for minor development by extending permitted development rights;
- enable more effective control over demolition in a conservation area, area of townscape or village character; and

- speed up the development of land and assist planning authorities in determining future development needs by reducing the duration of planning permission, listed building and conservation area consents.

- 3.5 In addition to a range of other process improvements, the Department also proposes to improve the planning appeals system by tackling delaying factors and providing a system which is more proportionate to the type and complexity of each appeal. The benefits include speeding up the appeals system and freeing up resources for more complex and contentious cases.
- 3.6 The main additional costs associated with introduction of the new elements of the planning system and changes to planning processes are expected to be those associated with training staff involved in the decision-making process and providing guidance to the public, particularly to developers, agents, consultees and others involved with the planning system. With the introduction of the new hierarchy of planning applications, and redistribution of resources in line with proportionate processing, some applicants may be liable to higher fees that more accurately reflect the cost of processing particular types of application. A parallel examination of the funding of the planning system will be taken forward in 2009. However, the Department considers that any potential increase in costs for certain types of applications should be offset by the benefits of more efficient development management processes and shorter processing times.
- 3.7 New and enhanced processes, such as pre-application consultation with communities, may result in developers incurring some costs. However, some developers carry out this type of engagement already and, for others, the potential increase in costs for certain types of applications should be offset by more efficient development management processes and shorter processing times. Similarly, for communities and community groups, while there may be marginal costs in preparing for, and travelling to, pre-application consultation events, these should be offset by benefits of greater and more comprehensive community engagement.
- 3.8 Extending the list of statutory consultees will have minimal impact upon costs as consultees for planning applications will remain much the same as they are now. However, a number of consultees have expressed concerns about meeting the proposed statutory timescale for response within their current level of resources. This will be discussed further but, consequent upon the more proportionate and streamlined approach inherent in development management, we would expect that reducing the numbers and types of applications on which the Department consults, and the numbers of applications generally, should be offset against the overall resource requirements of responding within specified timescales.
- 3.9 While some of the proposals, such as reducing the time limit for lodging an appeal with the

Planning Appeals Commission from 6 months to 2 months, may lead to an initial increase in the number of appeals received and a corresponding increase in costs, it is envisaged that this will level out over time.

Consultation with small business: the Small Business Impact Test

4.1 Businesses that engage with the planning system will be affected by planning reform but the Department does not expect the proposals to impact adversely upon small businesses: quite the contrary. The impact of planning delays on business generally may be greater for small businesses. Planning delays have consequences for the profitability of an investment, in some cases also affecting performance or business strategy. Inability to expand may cause some small businesses to close or relocate. Consequently, although the measures being introduced are not being targeted specifically at any type of business, some of them may be of particular benefit to small companies. Small businesses and their representatives will be consulted as part of the wider public consultation.

Enforcement / Sanctions

5.1 The Department does not consider that its proposals significantly add to the enforcement provisions and sanctions which are part of the existing planning system. We have considered, or are seeking views on, certain issues which have the potential to enhance planning enforcement or add sanctions, such as fixed penalty notices, notices of initiation and completion of development, a premium fee for retrospective planning applications, the award of costs relating to unreasonable behaviour at appeals, and a power to decline to determine certain applications where the applicant has not complied with pre-application requirements. The Department is also seeking views on issues such as developer contributions and on criminalising development without planning permission. As these are not firm proposals at this stage they have not been considered in the context of this partial RIA. However, depending on the outcome of the public consultation, they may be reflected in the full RIA and may be the subject of future RIAs relating to subordinate legislation etc.

Consultation

Within Government

6.1 In order to inform the proposals in the consultation paper, a series of meetings, involving the Minister's independent planning expert, Professor Lloyd, were held with various stakeholders, including the Department for Regional Development, the Department for Social Development, the NI Environment Agency, the Environment Committee, the Planning Appeals Commission and a

range of other colleagues in the Planning Service and Department of the Environment. In addition, there has been informal engagement and discussions with officials from a number of Departments on specific issues such as regional planning (DRD) and microgeneration (DETI).

- 6.2 At Ministerial level, there was engagement with the Executive at the start of the reform process (October 2007) and an Emerging Proposals paper was sent to the Executive in June 2008. Officials have also provided updates and attended meetings of the Environment Committee, in addition to the Minister sending his Emerging Proposals paper to the Committee in September 2008. There has also been engagement with the Northern Ireland Local Government Association.

Public Consultation

- 6.3 The Department was involved in a major conference in November 2007, attended by approximately 200 delegates and addressed by the Minister, at which the reform of the planning system was announced. A questionnaire developed for the conference was also posted on the Planning Service website for 10 weeks, with over 240 responses submitted and considered. Also, a series of meetings have been held with a number of external stakeholders, including representative bodies such as Community Places, Northern Ireland Environmental Link, the Construction Employers Federation, the Institute of Directors, and the Confederation of British Industry.
- 6.4 The consultation on the overall reform paper and partial RIA will last for 12-weeks, after which the responses will be analysed and an action plan presented to the Minister for approval. During the consultation period, structured stakeholder events will be held across Northern Ireland to give everyone the opportunity to discuss the proposals. Thereafter, legislation will be drafted where necessary, and those reform measures which can be rolled-out administratively will be taken forward. Appropriate arrangements for monitoring and reviewing the effectiveness of the reforms will be considered in this context.

Other Impact Assessments

- 7.1 A draft Equality Impact Assessment (EQIA) at a strategic level has been prepared as part of the Department's Section 75 statutory duties in response to the Programme for Government (PfG) proposals. It is intended that the draft EQIA at a strategic level will help establish a foundation for subsequent Section 75 activities that will continue to ensure that due regard for the need to promote equality of opportunity and regard for the desirability of good relations are mainstreamed within each stage of development and implementation of the reform programme up to and beyond 2011. The draft EQIA at a strategic level is being published at the same time as, and in conjunction with, this consultation paper. The policy areas have also been screened to consider

their potential impacts over a wide range of government initiatives, including rural proofing, New Targeting Social Need, crime, health, human rights and environmental issues. At present, it would appear that the proposals will apply uniformly to all groups with no adverse impact in these areas.

Summary and Recommendations

- 8.1 Any feedback as a result of this partial RIA will be considered as part of the overall analysis of the responses to the consultation. As we move forward with the reform programme, more detailed RIAs will be undertaken and published where it is considered necessary and appropriate to do so and, once final decisions are taken in relation to the proposed reforms of the planning system, a full RIA will be prepared to accompany the legislation.

Annex 10

RURAL PROOFING CHECKLIST

Initial Screening

Introduction

This checklist contains our initial thoughts on the potential impacts the reform proposals might have on rural communities. We view this stage of the consultation process as being key in refining these initial thoughts and enabling us to engage with rural communities on the proposals and to take their views. We, therefore, welcome any comments on the conclusions we have reached below so that we can address any issues or concerns that might be raised.

Many of the proposals are changes to processes, rather than policy. Overall, we consider that the proposals will have a positive impact on both rural and urban areas through the aims of speeding up both the development plan and the development management processes, better community involvement and more proportionate processes. Speedier production of development plans and processing of planning applications should have a positive impact generally on the Northern Ireland community, allowing approved development to proceed more quickly, with subsequent economic and employment benefits. However, we acknowledge that we need to consider any specific impacts, either positive or negative, the proposals may have on the rural community. We have attempted to do so in the checklist below. Where we are uncertain we have said so, and would particularly welcome comments on those areas.

Section 4.17 in the development management chapter acknowledges that the Department recognises that development circumstances vary between urban and rural communities in Northern Ireland. Some regional variation, therefore, has been taken account of in setting thresholds for housing development in relation to the varying function, size and existing character of the settlement pattern and we ask if stakeholders agree with the proposed approach to urban/rural variation.

Under the review of public administration (RPA) the majority of planning functions will transfer to the new 11 council areas in 2011. The overall purpose of the RPA is to improve local accountability and enable local people and their representatives to shape their own areas, within an overall strategic context. The reform proposals have been placed in this context. The Department is currently working with local government on how planning functions will be delivered by the new councils. Decisions on where local planning offices will be situated in the context of the RPA, for example, have not yet been taken and are outside the remit of this consultation paper.

One of the key elements of the reform proposals is enhanced community involvement during development plan preparation and processing of major and strategic planning applications. We consider it important that the new district councils, in carrying out their new planning functions, ensure that all interested parties, both urban and rural, are able to have their say.

The proposals with regard to local applications, which will comprise the majority of applications processed by the new councils, are intended to allow these applications to be processed more quickly through streamlined processes and delegated decision-making. This should have a positive impact on rural communities by enabling planning decisions to be issued more quickly and, hence, development to commence sooner.

With regards to the proposals to extend permitted development rights, the Department is carrying out separate consultation exercises on these which will include more detailed assessments.

Rural

	Assessment Of Impacts			Consideration Of: Mitigating Measures; and Alternative Policies
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	
Service Provision				
<p>Centralised service outlets: rural people or businesses generally need to travel to an urban centre to use service outlets. How will the proposed rural beneficiaries of a policy have reasonable access to it? Does policy delivery depend upon outlets, which are sparse in many rural areas?</p>	Positive	<p>There are currently 6 Divisional Planning Offices and 2 sub-divisional planning offices distributed throughout Northern Ireland, plus a Headquarters in Belfast. The Planning Service also operates planning clinics away from these locations. The service delivery model for the new planning system is currently under consideration, but in principle the transfer of planning functions to 11 local planning authorities provides opportunities to make the planning system more accessible geographically for the rural community. Since the delivery model has yet to be determined the impact upon accessibility is uncertain as is any differential impact upon the rural community. In addition, the future location of the local planning offices is outside the remit of this consultation paper.</p>	<p>These proposals are about improving efficiency and effectiveness in the planning system. A range of quantitative evidence may exist for different rural issues as they arise.</p>	<p>The purpose of the consultation will be for consultees to consider the proposals and have the opportunity to propose alternative policies that they feel better serve the interests of rural areas. Where mitigating measures or alternative policies are not proposed, there is opportunity to revisit this in light of any information that comes forward as part of the consultation.</p>
<p>Few information points: rural areas contain fewer (formal)</p>	Positive	<p>The reform proposals include a requirement that the new local planning authorities prepare a</p>	As above	<p>There are initiatives being pursued by other Departments to</p>

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
places to obtain advice and information e.g. libraries, Citizens Advice Bureaux, public Internet points. If the policy's successful delivery requires communication with clients, how will those in rural areas have ready access to information and advice?		statement of community involvement (SCI) setting out the procedures for involving the local community, both urban and rural, in the preparation and revision of local development plan and for consulting on planning applications. This ensures that community groups, the voluntary sector and the wider public are aware of why community involvement in the planning process is important and how they can become involved. SCIs are one way in which the planning authority can clearly demonstrate its commitment to community involvement. The SCI, which must be in place and agreed by central government before any public consultation on a development plan takes place, will be a fundamental tool in the development plan process to enable the local community to engage early in plan preparation. Under RPA the requirement to prepare a SCI will pass to each of the newly formed councils for their development plan and development management functions.		improve access of the rural community to the internet and other services delivered electronically, which would include access to the planning system. The Department's implementation of the Electronic Planning Information for Citizens project (ePic) will enable provision of a faster, more effective, efficient and transparent service to all.

Rural

	Assessment Of Impacts			Consideration Of: Mitigating Measures; and Alternative Policies
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	
		<p>The Department’s proposals for managing regionally significant and major planning applications move away from the situation where a developer submits an application and the planning authority then consults the community, to one where a proposal is developed with the engagement of the community at the outset of the process, prior to the submission of the planning application, thereby enhancing community involvement in key elements of the process.</p>		

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
Mobility				
Greater travel needs: on average rural people and businesses travel further to reach jobs, facilities, clients and other opportunities. What will the policy effects be upon existing requirements to travel, or the time, convenience and costs entailed for rural businesses or people (especially those on low incomes or without easy access to a car or public transport)?	Positive	A function of the planning system is to formulate and coordinate policy for securing the orderly and consistent development of land and the planning of that development. Development plans and planning policies provide a framework for all forms of development, including that promoted or undertaken by bodies responsible for addressing public transport needs. Improvements in the efficiency and speed at which development plans and policies will be delivered may indirectly, therefore, have a positive impact upon policies and development undertaken by public transport providers. However, whether this could lead to a differential impact upon the rural community is uncertain.	As above	
Higher service delivery costs: rural distances plus small and dispersed populations can make it more difficult and costly to provide services to rural clients. Does the unit cost of providing	None	The current delivery model for the Planning Service does not reflect any difference in the costs of delivering the service to urban or rural communities. Planning fees are set centrally and are applied uniformly throughout Northern Ireland.	As above	It is proposed that this will continue when planning functions are transferred but that, after a period, consideration will be given to fees being set by local planning authorities. At that

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
the service to rural clients limit the extent or quality of service provision? Are there alternative ways to reduce costs and increase provision?				stage, further consideration, assessment and consultation will be undertaken with regard to any potential impacts on rural communities.
Economic Vibrancy				
Employment Opportunities: Will the policy affect the distribution of intended economic activity in different areas, or the level of access to employment or training opportunities, e.g. the distribution of public sector jobs and the relative accessibility of job skills training.	Positive	The Department does not consider that the reform proposals will have any direct impact upon the distribution of intended economic activity in different areas, or the level of access to employment or training opportunities. However, improvements in the efficiency and speed at which development plans and planning decisions will be delivered may, over time, indirectly have a positive (but not differential in terms of urban/rural) impact upon the economy and job creation. As mentioned above, the future location of local planning offices in the context of the new 11 councils is outside the remit of this consultation paper.	As above	
Employment Flexibility: many households require part-time	Positive	The Department's development management proposals to extend permitted development rights	As above	

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
employment or employment with flexible hours to allow them to balance work and life needs (for example, in maintaining a small farm or balancing care arrangements). Will the policy help or hinder this sort of employment need or reduce the need for flexibility through, for example, encouraging better childcare provision?		and speed up planning processes: for example, by delegating decisions on minor non-contentious development proposals to chief planning officers, may facilitate both diversification on farms and development undertaken by small firms. This may have a positive impact upon the creation of small businesses and small scale development, which may favour part-time or flexible employment arrangements. However, the Department considers the differential impact upon the rural community in this respect likely to be insignificant		
Small firm economy: more businesses are micro-businesses in rural areas (in particular agricultural) and there are few medium-sized or large firms. Will a policy or initiative target and be of benefit to, small (as well as larger) businesses?	Positive	Development by small firms is likely to be local and small scale. The Department's development management proposals to extend permitted development rights and speed up planning processes: for example, by delegating decisions on minor non-contentious development proposals to chief planning officers, may facilitate both diversification on farms, creation of small businesses and development undertaken by small firms.	As above	The impacts upon small businesses in the rural community is uncertain, as further consultation is planned on permitted development rights.
Weak infrastructure: telecommunications infrastructures are generally less	Positive	The implementation of the Electronic Planning Information for Citizens project (ePic) will make an impact on the planning	As above	ePic will be in place in advance of RPA and is not covered by this planning reform consultation;

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
developed in rural areas, especially remoter areas. If a fast or high-capacity infrastructure (e.g. “broadband” telecommunications) will play a significant part in implementing the policy or initiative, how will it be delivered in rural areas?		system, enabling a faster, more effective, efficient and transparent service. However, access to the planning system will not be solely dependent on ePic. The service delivery model for the new planning system is currently under consideration and final decisions have not yet been taken. However, the transfer of planning functions to 11 local planning authorities provides opportunities to make the planning system more accessible geographically for the rural community.		therefore, there is no significant differential effect on rural communities.
Infrastructure innovations: often, new innovations in infrastructure or service provision are introduced into urban areas first. Can innovations also be tested in rural areas? Might rural areas provide a stronger test in the first instance? Are there plans to roll out new services or infrastructure to rural areas to minimise long periods of inequality?	None	The proposed reforms to the planning system are intended to come into operation throughout Northern Ireland at the same time, i.e. concurrently with the transfer of planning functions to local planning authorities. They do not appear to present any opportunities for testing in rural areas first.	As above	There may be opportunities to address inequalities through appropriate use of statements of community involvement (see section 1 above) and other ways in which local planning authorities will engage with communities.
High Impact Infrastructure: could a fast or high capacity	None	The planning system facilitates development associated with infrastructure provision but does	As above	

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
infrastructure requirement represent a significant impact on environmental or social assets in rural areas (e.g. the impact on social cohesion of increased mobility stemming from the upgrading of roads). Could it be modified to reduce these impacts whilst still delivering policy benefits.		not itself provide such requirements. Development plans and planning policies provide a framework for all forms of development, including infrastructure provision. However, the focus of planning reform is on improving planning processes and systems and not on the appropriate plans or policies for infrastructure provision in Northern Ireland. There is no significant differential effect on rural communities in terms of high impact infrastructure.		
Social Well Being				
Countryside amenity and access: the countryside provides important recreational opportunities and a place to get away from it all for people wherever they live. What will be the impact of the policy or initiative for people wishing to reach and use the countryside as a place for recreation and enjoyment?	None	Development plans and planning policies provide a framework for all forms of development, including appropriate policies for the retention and enhancement of countryside amenity and access. However, the focus of planning reform is on improving planning processes and systems and not on the appropriate plans or policies for the retention and enhancement of countryside amenity and access in Northern Ireland. Therefore, there is no significant differential effect on rural communities in terms of countryside amenity and access.	As above	

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
Needs not concentrated: rural disadvantage and social exclusion does not exist in the types of concentrations found on urban housing estates or in inner city neighbourhoods. It is generally scattered and, in wealthier parts of the countryside, exists side by side with affluence. Will a policy, especially area-based initiatives, have provision for reaching people or households in the open countryside as well as more concentrated locations of disadvantage?	None	The proposed reforms to the planning system are intended to come into operation throughout Northern Ireland at the same time, i.e. concurrently with the transfer of planning functions to local planning authorities. No differential provision for people or households in the open countryside, or more concentrated locations of disadvantage, is anticipated.	As above	
Different types of need: the mix of deprivation characteristics is somewhat different between rural and urban areas. Poor access to services (including health & social services), low local wages, limited job opportunities and a lack of	None	The planning system is available to all. The proposed statements of community involvement (see section 1 above) and the community engagement process for local development plans should reflect both rural and urban concerns and the opportunities of both communities to engage with the planning system. It is not envisaged that there will be any significant differential effect on	As above	

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
affordable housing are key rural issues. What needs or deprivation indicators will be used to target an initiative: will they reflect both rural and urban concerns?		rural communities.		
Social Capital				
Low institutional capacity: private, public and voluntary sector bodies in rural areas tend to be smaller and often struggle to forge partnerships or submit bids, especially to tight timescales. If a policy or initiative depends upon local institutions, how will it allow for areas with low institutional capacity? How might it avoid a bias in favour of urban representation and influence if partnership formation is a key method for delivery or for	Positive	The proposed statement of community involvement (see section 1 above) will set out the procedures for involving the local community in the preparation and revision of local development plan documents and for consulting on planning applications. It should make alternative provision for areas with low institutional capacity to ensure that all groups are represented and have an opportunity to influence both development plans and development proposals. However, while the reform proposals will enhance the requirements and opportunities for community participation in the planning system across all communities, it is uncertain whether there will be any differential impacts upon the rural community.	As above	

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
subsequent mainstreaming of learning from pilot initiatives?				
Social Capital and community cohesion: provision of services or design of village renewal, new or regeneration of housing estates can impact on sense of community and social capital. Will the policy contribute to strengthening or weakening social capital and hence, the health and sustainability of rural communities?	Positive	The planning reforms generally, and specifically in the case of statements of community involvement (see section 1 above), should work against the weakening of social capital and favour the health and sustainability of rural communities by ensuring that all communities have a say in those plans and planning decisions which may impact upon social capital and community cohesion. However, at this stage it is uncertain whether there will be any differential impacts of this upon the rural community.	As above	
Natural & Cultural Capital				
Land-based industries: land-based industries (e.g. agriculture, forestry, fishing and extraction / mining) have an important impact on the rural landscape, environment and biodiversity,	Positive	The Department's development management proposals to extend permitted development rights and speed up planning processes: for example, by delegating decisions on minor non-contentious development proposals to chief planning officers, may facilitate diversification on farms and	As above	The impacts upon agriculture and extraction/ mining are uncertain, as further consultation is planned on permitted development rights.

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
and remain significant employers in certain rural areas (despite being a fairly small element of the overall rural		development ancillary to mining operations.		
economic base). Will a policy have any particular impacts on – land-based industries and, therefore, on rural economies and environments?				
Landscape quality and character: our rural landscapes are highly valued for their beauty and distinctiveness and contribute significantly to our tourism potential. What will be the likely policy impact upon the quality and distinctive character of natural and built rural landscapes, especially (but not only) on protected landscapes and on biodiversity?	None	Development plans and planning policies provide a framework for all forms of development, including appropriate policies for landscape quality and character. However, the focus of planning reform is on improving planning processes and systems and not on the appropriate plans or policies for landscape quality and character. Therefore, there is no significant differential effect on rural communities in terms of landscape quality and character.	As above	

Rural

	Assessment Of Impacts			Consideration Of:
	Positive Negative None	Qualitative (Detail Evidence)	Quantitative (Detail Evidence)	Mitigating Measures; and Alternative Policies
Local Craft and Food production: A key resource for the growth of many micro-businesses in rural areas is the use of traditional crafts, foods and recipes. Will the policy have an impact on the production of any of these, (e.g. regulations affecting food hygiene and production standards) and if so how might traditional approaches be accommodated.	Positive	The Department's development management proposals to extend permitted development rights and speed up planning processes: for example, by delegating decisions on minor non-contentious development proposals to chief planning officers, may facilitate diversification on farms and thereby promote the creation of micro-businesses in rural areas using traditional crafts, foods and recipes.	As above	

Summary of Rural Proofing of Planning Reform Proposals

	Screening Questions	Response to Screening Questions		Full Impact Assessment Required		Justification / Key issues and groups to focus on
		Yes	No	Yes	No	
Rural	Does the policy apply in rural areas and communities? If NO: set out the reasons why If Yes:	X			X	The policy aims to impact in a positive way on rural areas. The checklist has been completed to further support this case.
	Does the policy have the potential to have a negative impact on rural areas and communities?		X		X	The objective of the policy is to ensure that there are positive impacts on rural areas as a result of policy making.
	Does the policy have the potential to have a positive impact on rural areas and communities?	X			X	The objective of the policy is to ensure that there are positive impacts on rural areas as a result of policy making.
	CONCLUSION					

When Is a Rural Impact Assessment Required?

- If the answer to question 1 is yes, consideration should be given to undertaking a rural impact assessment. The following guidance applies:
- If the answer to a is yes, a rural impact assessment must be undertaken and the checklist completed.
- If the answer to b is yes, the policy document should include a reference to how and why the impact will be positive.

Conclusion

This consultation paper is only one element of the consultation process and of the rural proofing process. We will be carrying out 11 structured stakeholder events across Northern Ireland where the proposals can be discussed and debated. Rural interest groups will be invited to attend these events. All responses will be carefully considered before final policy decisions are taken. We acknowledge that many of our conclusions may need further consideration at this stage. We are particularly interested in comments from the rural community on our proposals in relation to enhancing community involvement in the planning system.

Annex 11

List of Consultees

20:20 Architects
Age Concern Northern Ireland
Archbishop Of Armagh & Primate Of All Ireland
Architecture and Planning Information Services – Queen’s University Belfast
Arcus Architects
ASI Architects
Atlas Communications
B9 Energy Services Ltd
Bar Library
BB Planning & Design
BBC Engineering Information Department
Belfast City Airport
Belfast Civic Trust
Belfast Harbour Commissioners
Belfast Healthy Cities
Belfast Hills Partnership
Belfast International Airport
Belfast Metropolitan College
Belfast Metropolitan Residents Group
Belfast Solicitors’ Association
Bell Architects Ltd
Big Picture Developments
Bishop Of Down And Connor
Brennen Associates
British Telecom (N.I.)
British Wind Energy Association
Bryson House
Building Design Partnership
Cable & Wireless
Cabletel (NI) Ltd
Carers Northern Ireland
Carvill Group Limited
Catholic Bishops of Northern Ireland
Cedar Foundation
Chartered Institute of Environmental Health
Chartered Institute of Housing
Chief Executive of the Northern Ireland
Judicial Appointments Commission
Chinese Welfare Association
City of Derry Airport
Civil Law Reform Division
Clarion Hotel
Coalition On Sexual Orientation
Coleraine Harbour Commissioners
Committee for the Administration of Justice
Community Places
Confederation of British Industry, Northern Ireland Branch
Construction Employers Federation
Construction Register Ltd
Coogan & Co
Council for Catholic Maintained Schools
Council for Nature Conservation and the Countryside
Countryside Access & Activities Network for Northern Ireland
Crown Castle UK Ltd
Department of Civil Engineering – Queen’s University Belfast
Department of Environmental Planning - Queen’s University Belfast
Derryhale Residents' Association
Development Planning Partnerships
Disability Action
District Judge (Magistrates Court)
DSD Housing Associations Branch
Duddy Group
Enniskillen Aerodrome
Environment and Planning Law Association of Northern Ireland
Equality Commission for Northern Ireland
Executive Council of the Inn of Court of Northern Ireland
Exitoso
Federation of Small Businesses
Ferguson & McIlveen
Fire Authority for Northern Ireland
Fisheries Conservancy Board for Northern Ireland
Food Standards’ Agency Northern Ireland
Forest of Belfast, C/o Parks and Amenities Section
Friends of the Earth
General Consumer Council for Northern Ireland
Geological Survey of Northern Ireland
Gingerbread Northern Ireland
Government Relations Department, Vodafone Group Services Ltd
Help The Aged Northern Ireland
Historic Buildings Council
Historic Monuments Council
HM Revenue & Customs
Human Rights Commission

I – Document Systems

Irish Congress of Trade Unions (Northern Ireland Committee)

Inland Revenue

Institute of Professional Legal Studies

Institute of Directors

Institute of Historic Building Conservation

Institution of Civil Engineers (Northern Ireland Association)

International Tree Foundation

Invest Northern Ireland

Kenneth Crothers, Deane & Curry

Lagan Valley Regional Park Officer

Laganside Courts

Landscape Institute Northern Ireland

Larne Harbour Commissioners

Law Centre (Northern Ireland)

Law Society of Northern Ireland

Londonderry Port & Harbour Commissioners

Lough Neagh and Lower Bann Management Committees

LPG Association

Marks and Spencer

McClelland/Saulter Estate Agents

Men’s Action Network

Methodist Church In Ireland

Ministry of Defence

Ministry of Defence HQNI

MKA Planning

Mobile Operators’ Association

Mono Consultants Limited

Mourne Heritage Trust

Mournes Advisory Council

National Grid Wireless Group

National Trust

Newtownards Aerodrome

Northern Ireland 2000

Northern Ireland Affairs Committee

Northern Ireland Agricultural Producers Association

Northern Ireland Amenity Council

Northern Ireland Assembly Environment Committee

Northern Ireland Association of Citizens’ Advice Bureau

Northern Ireland Association Engineering Employer's Federation

Northern Ireland Chamber of Commerce and Industry

Northern Ireland Chamber of Trade

Northern Ireland Council For Ethnic Minorities

Northern Ireland Council for Voluntary Action

Northern Ireland Court Service

Northern Ireland District Councils - Chief Executives and Health Officers

Northern Ireland Economic Council

Northern Ireland Education and Library Boards

Northern Ireland Electricity Plc

Northern Ireland Environmental Link

Northern Ireland Federation of Housing Associations

Northern Ireland Gay Rights Association

Northern Ireland Health and Social Services Boards, Trusts and Agencies

Northern Ireland Housing Council

Northern Ireland Housing Executive

Northern Ireland Law Commission

Northern Ireland Local Government Association

Northern Ireland MPs, MEPs, Political Parties and MLAs

Northern Ireland Ombudsman

Northern Ireland Office

Northern Ireland Public Service Alliance (NIPSA)

Northern Ireland Quarry Owners Association

Northern Ireland Quarry Products Association

Northern Ireland Residents’ Coalition

Northern Ireland Resident Magistrates' Association

Northern Ireland Tourist Board

Northern Ireland Women's European Platform

North West Architectural Association

NTL Cabletel

O2

OFCOM

OFREG

OPP Planning Consultants

Orange

Orange PCS Limited

Ostick and Williams

Participation & the Practice of Rights Project

Phoenix Natural Gas Ltd

Planning Appeals Commission

Planning Magazine

Playboard N.I. Ltd

POBAL

Policing Board of Northern Ireland

Pragma Planning

Presbyterian Church In Ireland

Property Developer

Property Services Agency
PSNI Architectural Liaison Officer
PSNI Traffic Branch HQ
Public Policy Executive RICS Northern
Ireland
RELATE
Research and Information Services
Robert Turley Associates
Royal Institution of Chartered Surveyors in
Northern Ireland
Royal National Institute for the Deaf
Royal National Institute for the Blind
Royal Society for Protection of Birds
Royal Society of Ulster Architects
Royal Town Planning Institute (Irish Branch,
Northern Section)
RPP Architects
RPS Group
Rural Community Network
Rural Development Council for Northern
Ireland
School of Law
Secretary, HM Council of County Court
Judges
Society of Local Authority Chief Executives
Sports Northern Ireland
Strangford Lough Advisory Council
Strangford Lough Management Committee
Strategic Investment Board Ltd
Sustrans
Three
Three, Parliamentary & Community Affairs
Manager
T-Mobile
Training for Women Network Ltd
Translink
Transport 2000
Travellers' Movement Northern Ireland
Tyrone Brick
Ulster Angling Federation
Ulster Architectural Heritage Society
Ulster Farmers' Union
Ulster Society for the Preservation of the
Countryside
Ulster Wildlife Trust
University of Ulster, School of the Built
Environment
Urban and Regional Planning Associates
UTV Engineering Information Department
Victims' Unit
Vodafone Ltd
Warrenpoint Harbour Authority

WDR & RT Taggart
Wildfowl and Wetland Trust
William Ewart Properties Ltd.
Women's Forum Northern Ireland
Woodland Trust
World Wildlife Fund (NI)
Youth Council for Northern Ireland

Plus notification of consultation provided to a
number of other individuals and organisations
in response to specific requests

ANNEX 12

Glossary of Terms/Abbreviations

ATC – Area of Townscape Character

AVC – Area of Village Character

CIL – Community Infrastructure Levy

Councils/district councils – either term is used to refer to the new 11 district councils, post-RPA

DOE – Department of the Environment

DRD – Department for Regional Development

EIA – Environmental Impact Assessment

ePIC – Electronic Planning Information for Citizens

EQIA – Equality Impact Assessment

GDO – General Development Order (NI) 1993

IE – Independent Examination

ISNI – Investment Strategy for Northern Ireland 2008 - 18

LMRBs – Local Member Review Bodies

LPA – Local Planning Authority

New TSN – New Targeting Social Need

NOP – Notice of Opinion

PA – Performance Agreement

PAC – Planning Appeals Commission

PADs - Pre-application Discussions

PFG – Programme for Government 2008 - 11

PGS – Planning Gain Supplement

PI – Public inquiry

Planning authority - currently the Planning Service, but will include districts councils from 2011

PMS – Programme Management Scheme

PPSs – Planning Policy Statements

RDS – Regional Development Strategy 2025

RIA – Regulatory Impact Assessment

ROI – Republic of Ireland

ROMPS – Review of Old Minerals Permissions

RPA – Review of Public Administration

RTPI – Royal Town Planning Institute

SA – Sustainability appraisal

SEA – Strategic Environmental Assessment

SCI – Statement of Community Involvement

SEA – Strategic Environmental Assessment