

**Regional Planning Directorate**

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Our Reference: CPU4

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Dear Colleague

## **CHIEF PLANNER'S UPDATE 4**

In keeping with my intention to update councils on key planning issues, please find below a summary of the main areas which may be of interest to you at this time. I trust you find the update helpful.

### **Northern Ireland Planning Monitoring Framework**

The first Northern Ireland Planning Monitoring Framework was published on 19 September. The framework has been developed in collaboration with councils and includes a number of new indicators around the planning system in Northern Ireland. I see this as an excellent starting point and look forward to continued collaboration with councils on further developing and improving the indicators.

### **Continuous improvement**

As you are now no doubt aware, John Irvine's report into reviewing the efficiency and effectiveness of the planning system, with particular focus on the role of statutory consultees, has now been finalised. The report makes a number of recommendations aimed at improving the planning system as a whole. I see this as an opportunity for us to work together, through the Strategic Planning Group, to continuously improve the planning system as informed by the report.

## **Local Development Plans (LDPs)**

All 11 councils have now published and consulted on their preferred options papers. Four councils (Belfast City, Fermanagh and Omagh, Mid Ulster, and Antrim and Newtownabbey) have published and consulted on their draft plan strategies. Mid and East Antrim published a draft plan strategy on 17 September with formal consultation commencing on 16 October and Lisburn and Castlereagh City Council published a draft plan strategy on 11 October with formal consultation commencing on 8 November. Furthermore, Derry City and Strabane District Council will publish a draft Plan Strategy for consultation on 2 December 2019. On 30 August Belfast City Council submitted its draft plan strategy and supporting documents to the Department to cause an independent examination.

## **LDP timetables**

As stated in Development Plan Practice Note 3, the local development plan timetable should set out a council's programme for the production of its LDP, including indicative dates for each stage of the process. Indicative dates allow for a degree of flexibility to enable a council to effectively manage the LDP preparation process while reducing the potential for constant review and/or revision of the timetable. In line with the published guidance, any formal revision to the LDP timetable should state the plan preparation progress to date, what remains to be completed, reasons for the slippage and implications for the subsequent stages of plan preparation.

Building in a small amount of flexibility before triggering the need for a formal change in the agreed timetable is considered to be reasonable. However, it is not expected that the degree of flexibility would normally exceed 3 months. It is recommended that councils discuss any changes to agreed LDP timetables with the Department.

## **Draft BMAP**

Following a decision of the Court of Appeal in March 2017, I wish to confirm that the draft Belfast Metropolitan Area Plan remains as an emerging plan and, as such, the draft plan, along with representations received to the draft plan and the PAC inquiry reports, **remain as material considerations** to be weighed by the decision-maker.

## **Refresh of housing growth indicators**

The Department recently undertook an exercise to refresh the housing growth indicators (HGIs) set out in the Regional Development Strategy. That work is now complete and a 2016-based housing growth indicators paper has been issued to councils and published on the Department's website. The paper sets out the revised figures, taking account of updated data for three of the components which previously made up the HGIs.

The updated HGIs cover the period to 2030, ensuring they better correspond with the timescale for the majority of local development plans currently under preparation. Councils should now take account of these revised indicators, alongside all other relevant evidence gathered to date, to justify the housing requirement in their draft plan strategies.

## **Environmental governance**

Work continues to be taken forward under the Department's environmental governance work programme. Training on environmental impact assessments commenced on 21 October and further places will be available in February 2020.

## **Planning guidance**

Since the previous CPU the following revised practice note has been published:

### ***Development Management Practice Note 11 - Planning Fees (Version 2 / June 2019)***

On 17 June 2019 the Department published the above practice note following the coming into operation of the Planning (Fees) (Amendment) Regulations (Northern Ireland) 2019. A copy of the revised practice note can be found at:-

<https://www.infrastructure-ni.gov.uk/publications/development-management-practice-notes>

The 'Planning Fees - Explanatory Notes for Applicants' guide was also revised and a copy can be found at:-

<https://www.infrastructure-ni.gov.uk/publications/planning-fees-explanatory-note-applicants>

### ***Draft Development Plan Practice Note 10 - Submitting Development Plan Documents for Independent Examination***

The Department is currently working towards publishing DPPN 10. Councils had sought clarification on the next steps after publishing draft development plan documents (DPDs) and this guidance is partly in response to those requests.

The guidance deals with the next stage of the process, where DPDs move towards independent examination (IE). It details the legislative requirements around submission of documents to the Department to cause an IE. In addition, some administrative steps have been introduced to assist with the process and the Department's role.

Councils should, of course, endeavour to prepare a sound DPD in the first instance, through taking account of relevant policies and strategies, preparation of a robust evidence base, and involving stakeholders and the community. However, the representations and counter representations made during the public consultation on the draft plan strategy are made on the basis of soundness, and the legislation requires councils to consider these. The guidance aims to ensure a consistent approach is undertaken in relation to the procedural and information requirements which are necessary for an effective and efficient process.

## **Extant planning guidance**

The Department has clarified its position on the future of extant planning guidance (prepared by DoE under the unitary planning system).

First updated on 18 October 2019, the Department's website now sets out which guidance has been withdrawn, which will cease to have effect in a council area once that council adopts its plan strategy and which guidance is retained, unless and until replaced by the Department.

In relation to guidance which will cease to have effect when councils adopt their plan strategies, it is considered that this affords councils the opportunity to prepare local guidance on such matters, if so desired.

Additional updates issued on 20 November (in relation to draft supplementary planning guidance to PPS18 on Anaerobic Digestion) and on 22 November (in relation to best practice guidance to PPS23, Enabling Development). Going forward, and where appropriate, the Department will provide further updates on planning guidance on the DfI website.

Further detail on each piece of guidance can be found at:-

<https://www.infrastructure-ni.gov.uk/articles/guidance-update>

## **The Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 (EFEF)**

### **Reviews**

The Permanent Secretary has agreed that the public interest continues to be served by deferring decisions on the following reviews so that they are taken by locally elected and accountable ministers and subjected to scrutiny in the Assembly. This approach will continue to be kept under review.

- Review of the Planning Act regulations
- Review of permitted development rights for mineral exploration
- Review of strategic planning policy on renewable energy
- Review of strategic planning policy on development in the countryside

### **Departmental determination of planning applications**

Under the EFEF Act, the Department has issued 2 decisions (one refusal and one approval) and determined 14 applications (to the end of August 2019) (12 approvals / consents and 2 withdrawals). The Department will continue to progress planning applications to a point where a decision can be made. The Department will then consider, on a case by case basis, the provisions of the Act and associated guidance, and decide whether to issue a decision.

### **Call-in of planning applications to the Department**

Under the EFEF Act, a decision was taken to issue directions requiring the referral (call-in) of applications relating to a development proposal at the Londonderry Hotel, Portrush, and a planning application relating to a development proposal at Lurgan Road, Moira. These applications will now be determined by the Department rather than the relevant council.

## **New Northern Ireland regional planning IT system**

The Department and local government have commenced the procurement of a new regional planning IT system, with the intention of awarding a contract in early spring 2020. I would like to take this opportunity to thank councils for their ongoing support and hard work in taking forward this very challenging project.

## **BIC 20-year anniversary symposium: creating an inclusive future vision for our ageing population**

The Department has been working with colleagues in the British Irish Council and Department for Communities to organise a one day symposium, which will be held in Belfast on 29 November 2019. Delegates will hear from a range of expert speakers and have an opportunity to explore the key implications of our changing demography for planning and housing.

## **Case Law**

A recent judicial review (Stuart Knox v Causeway Coast and Glens Borough Council [2019] NIQB 34) concluded that councils in Northern Ireland should both welcome and embrace the legal duty to provide adequate, coherent and intelligible reasons for their decisions on planning applications. The link to this judgment is:-

[https://www.causewaycoastandglens.gov.uk/uploads/general/PC\\_190417\\_Item\\_10.1\\_KNOX\\_Judgement\\_29\\_03\\_19\\_McC10904.pdf](https://www.causewaycoastandglens.gov.uk/uploads/general/PC_190417_Item_10.1_KNOX_Judgement_29_03_19_McC10904.pdf)

I would like to draw your attention to the fact that the judge went on to encourage councils to review practices, procedures and cultures to ensure that the obligation to provide adequate, coherent and intelligible reasons for decisions on planning applications is being properly discharged. As you are aware, the lack of such clear planning reasons has a significant impact, not only on the effective implementation of regional policy across NI, but on the public's confidence in the planning system and may leave a council open to legal challenge.

## **Northern Ireland Audit Office (NIAO)**

The NIAO has advised that it intends to carry out a review of the planning system at both a local and central level. I understand that scoping for this review will commence in early 2020 and I would be keen for us all to work closely on this.

This Chief Planner's Update will be made available on the planning portal and DfI website.

Yours faithfully



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**ANGUS KERR**  
**Chief Planner &**  
**Director of Regional Planning**