



Title of Report:	Call for Evidence – Review of the Implementation of the Planning Act.
Committee Report Submitted To:	Planning Committee
Date of Meeting:	28 April 2021
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Head of Planning

Budgetary Considerations	
Cost of Proposal	N/A
Included in Current Year Estimates	
Capital/Revenue	
Code	
Staffing Costs	

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

FOR DECISION

1.0 Background

- 1.1** On 15 February 2021, the Department for Infrastructure commenced a review of the implementation of the Planning Act (Northern Ireland) 2011 as required by Section 228 of the Act. The DfI wrote to Council on 16 February 2021 inviting us to submit our views in response to the Call for Evidence by 4pm on 15 March 2021 (Appendix 1).
- 1.2** On 19 February 2021 the Head of Planning wrote to DfI requesting an extension to the timeframe for submission of views until 09 April 2021. This extension was agreed by DfI on 02 March 2021
- 1.3** On 08 March 2021, DfI wrote to Council advising that the timeframe for submission of views has further extended to 16 April 2021.
- 1.4** At the Planning Committee meeting it was resolved to hold a workshop to discuss in detail response to DfI. A workshop was held via MS Teams on 31 March 2021. It was agreed that a draft response would issue from Head of Planning within the 16 April 2021 timeframe followed by Planning Committee agreed response.

2.0 Details

- 2.1** The Northern Ireland planning system was fundamentally reformed in 2015 with the transfer of most major and local planning decisions, enforcement and plan making to local government. This also involved commencement of significant new primary legislation in the form of the Planning (NI) Act 2011, together with a raft of other supporting subordinate legislation to implement the reform.
- 2.2** The key aims of the reform were to:
 - deliver Northern Ireland Executive decisions to transfer the majority of planning functions to the newly formed councils thus creating a two tier planning system; and
 - bring forward short, medium and long term process improvements to modernise the system.
- 2.3** The main objectives for reforming and transferring planning were:-
 - the continued formulation and co-ordination of planning policy by the Department;
 - councils preparing local development plans;
 - councils determining the majority of planning applications for development; and
 - councils taking appropriate enforcement action where a breach of planning control may have taken place.
 - further sustainable development;
 - enhance community involvement in the planning process;
 - make more timely decisions in ways which are transparent and demonstrably fair;
 - Allow higher fines for planning offences; and

- Reform the planning appeals system

2.4 Section 228 of the Act requires the Department to review and publish a report on the implementation of the Act no later than 3 years after the commencement of Part 3 of the Act and at least once every 5 years thereafter. As required by Section 228(2) the Department made regulations on 12 October 2020 setting out the terms of the review. The Planning Act 2011 (Review) Regulations (Northern Ireland) 2020 came into operation on 02 November 2020 and specified that the Review must:

- Consider the objectives intended to be achieved by the Planning Act;
- Assess the extent to which those objectives have been achieved; and
- Assess whether it is appropriate to retain, amend or repeal any of the provisions of the Planning Act or subordinate legislation made under the 2011 Act, in order to achieve those objectives.

2.5 The purpose and scope of the review is to provide a level of assurance that the legislative framework for the delivery of a reformed planning system has been implemented and in a timely fashion. The focus of the review is on the implementation of the Act and the extent to which the original objectives of the Act have been achieved. This will inform whether there is a need to retain, amend or repeal any provisions of the Act.

2.6 The review will also provide an opportunity to consider any improvements which may be required to the way in which the Act has been commenced and implemented in subordinate legislation. Issues that have surfaced as a result of the Coronavirus pandemic will likely be considered as part of the review.

2.7 The Minister is keen to look at how the provisions of the Act are working in practice and whether there are any changes that could be implemented to further improve the system for all stakeholders.

2.8 The Department is keen to hear views as set out in the key questions detailed in the attached Call for Evidence paper.

2.9 Any recommendations emerging from the review which might involve legislative changes will follow normal policy development process including public consultation on any frat proposals and Assembly scrutiny where appropriate.

2.10 The draft response is attached at appendix 2.

3.0 Recommendation:

3.1 IT IS RECOMMENDED that the Committee APPROVES the attached response and AGREES to the Head of Planning responding to the Call for Evidence to DfI.

Call for Evidence

Review of the Implementation of The Planning Act (NI) 2011

Issued: 15 February 2021

Respond by: 15 March 2021

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Introduction

The Department for Infrastructure is currently undertaking a review of the implementation of the Planning Act (NI) 2011 (the Act) as required by section 228 of the Act. This Call for Evidence will help inform the consideration of this review.

How to Respond

You are invited to submit your views in response to this Call for Evidence **by 4.00pm on 15 March 2021**. Comments after this deadline will not be accepted.

Please respond using the Response Form attached to this document.

Responses should be emailed to the Department at the following address:

Legislation.Planning@infrastructure-ni.gov.uk

Please note that your response may be made public by the Department. For example, information people provide in response to this targeted engagement exercise, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality.

Background

1. In Northern Ireland, the planning system was fundamentally reformed in 2015 with the transfer of responsibility for most local planning decisions and plan making going to councils as well as significant reforms to the development management and plan making processes. The reforms represented the most fundamental change to the planning system in Northern Ireland in over 30 years.
2. This also involved commencement of significant new primary legislation in the form of the Planning (NI) Act 2011, together with a raft of other supporting subordinate legislation, which all came into effect on 1st April 2015. This new legislation paved the way for implementing the reforms.
3. The key aims of the reform of the planning system were to:
 - deliver Northern Ireland Executive decisions to transfer the majority of planning functions to the newly formed councils thus creating a two tier planning system; and
 - bring forward short, medium and long term process improvements to modernise the system.
4. The main objectives for reforming and transferring planning were:-
 - the continued formulation and co-ordination of planning policy by the Department;
 - councils preparing local development plans;
 - councils determining the majority of planning applications for development; and
 - councils taking appropriate enforcement action where a breach of planning control may have taken place.
 - further sustainable development;
 - enhance community involvement in the planning process;
 - make more timely decisions in ways which are transparent and demonstrably fair;
 - allow higher fines for planning offences; and
 - reform the planning appeals system.
5. In addition, in May 2016 the Departments Act (Northern Ireland) 2016, reduced the number of government departments from 12 to 9. This was the culmination

of discussion going back a number of years on the shape and size of the Northern Ireland Executive.

6. As part of this restructuring, the majority of departmental planning functions of the former Department of the Environment were transferred to the Department for Infrastructure¹, while the functions of the Planning Appeals Commission under Part 9 of the 2011 Act were transferred from the Office of the First and Deputy First Ministers to the Department of Justice. In addition a number of historical built environment functions of the 2011 Act were transferred to the Department for Communities. These included:
 - the power to list buildings under sections 80 to 84;
 - the reserve power to designate conservation areas under section 104; and
 - the reserve listed building enforcement powers under sections 158 to 161.

While these functions are the responsibility of the respective Departments, DFI will engage with both Departments as parts of the overall review of the implementation of the 2011 Planning Act.

Why undertake a review?

7. Section 228 of the Act requires the Department to review and publish a report on the implementation of the Act no later than 3 years after the commencement of Part 3 of the Act (Planning Control), and at least once in every 5 years thereafter. The Department is required by section 228(2) to make regulations setting out the terms of the review. The regulations were made on 12th October 2020 and came into operation on 2nd November.
8. The delay in meeting the initial timeframe set out in the Act for making the regulations and publication of the associated report, stems from decisions (not to proceed) made under the NI (Executive Formation & Exercise of Function etc.) Act 2018. These decisions determined that in the absence of a Minister or functioning Assembly, it would not be appropriate to make the regulations, and to publish the subsequent report on the implementation of the Planning Act.

¹ [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016](#)

9. The Planning Act 2011 (Review) Regulations (Northern Ireland) 2020² specify that the Review must:-

- consider the objectives intended to be achieved by the Planning Act;
- assess the extent to which those objectives have been achieved; and
- assess whether it is appropriate to retain, amend or repeal any of the provisions of the Planning Act or subordinate legislation made under the 2011 Act, in order to achieve those objectives.

The Planning Act (NI) 2011

10. The Act consists of 15 Parts, 255 sections and seven schedules³.

Amendments to timeframes for taking enforcement action and also a number of increased penalties were introduced from 1 December 2011, however the majority of provisions came into operation on 1 April 2015. The provisions of the Act which have been implemented are:

- Part 1 Functions of the Department for Infrastructure with respect to the development of land
- Part 2 Local development plans
- Part 3 Planning control
- Part 4 Additional planning control (except Chapter 4)
- Part 5 Enforcement
- Part 6 Compensation
- Part 7 Purchase of estates in certain land affected by planning decisions
- Part 8 Further provisions as to historic buildings
- Part 9 The planning appeals commission
- Part 10 Assessment of council's performance or decision making
- Part 11 Application of Act to crown land
- Part 13 Financial provisions
- Part 14 Miscellaneous and general provisions
- Part 15 Supplementary
- Schedule 1 Simplified planning zones
- Schedule 4 Amendments to the Land Development Values (Compensation Act (Northern Ireland
- Schedule 5 The historic buildings council
- Schedule 6 Minor and consequential amendments
- Schedule 7 Repeals

11. A small number of the provisions of the 2011 Act have not been commenced to date:

- Part 4 – Chapter 4 Review of Mineral Planning Permissions

² <https://www.legislation.gov.uk/nisr/2020/218/made>

³ <https://www.legislation.gov.uk/nia/2011/25/contents>

- Part 12 – Correction of Errors
- Schedule 2 – Review of old mineral planning permission
- Schedule 3 – Periodic review of mineral planning permissions.

Subordinate Legislation

12. The Department has made around 40 statutory rules and six directions under the Planning Act to facilitate the transfer of planning powers and the introduction of the two-tier planning system. This subordinate legislation may be viewed on the Department's website⁴. This raft of subordinate legislation underpins the Planning Act and sets out the detailed statutory requirements for key processes such as the submission of planning applications, and the preparation of local development plans. These ensure certain statutory functions are carried out and provide conformity throughout the planning system.

⁴ <https://www.infrastructure-ni.gov.uk/articles/current-planning-legislation>

Purpose and scope

13. The requirement to review and publish a report on the implementation of the Act is to ensure the Department monitors and reports on the coming into operation of the provisions within the Act, to provide a level of assurance that the legislative framework for the delivery of a reformed two-tier planning system has been implemented and in a timely fashion.

14. The focus of the review is, therefore, on the implementation of the legislative provisions of the Act itself and the extent to which the original objectives of the Act have been achieved. This will then inform whether there is a need to **retain, amend or repeal** any provisions of the Act. The review will also provide an opportunity to consider any improvements or 'fixes' which may be required to the way in which the Planning Act has been commenced and implemented in subordinate legislation. It is likely that issues with the planning system that have surfaced as a result of the Coronavirus pandemic will be considered as part of this review.

15. It is important, however, to highlight that the review is not envisaged as a fundamental root and branch review of the overall 2 tier planning system or the principles behind the provisions. It is still relatively early days in the delivery of the new system, compared with other jurisdictions, and there is no evidence to suggest this is the time for another fundamental re-examination of the system here, which would take considerable time. However, the Minister is keen to look at how the provisions of the Act are working in practice and whether there are any changes that could be implemented to further improve the system for all stakeholders – including councils, developers, and the wider public, not just in planning decisions, but also in the delivery of new local development plans which will provide certainty for the longer term. This may not always require legislative change.

COVID-19

16. The COVID-19 crisis has had an impact on everyone, and every sector across NI, and the planning system is no exception. To address this, the Department has and continues to issue guidance to councils and the public by way of Chief Planner's Updates providing information and advice on the ongoing operation of the planning system through this time, including support for practical measures to keep delivering local planning services whilst observing the latest health advice.
17. The Department has introduced emergency legislation and associated practice guidance which temporarily suspends the requirement for a Pre-application Community Consultation public event for major planning applications.
18. The Department has also worked with the Department for Communities in bringing forward Regulations enabling councils to put in place arrangements for holding Planning Committee meetings remotely and allowing council business, including taking planning decisions, to proceed during the COVID-19 emergency.
19. While we all continue to work through the current emergency period this review could provide an opportunity to examine how and in what ways the Department can future-proof / shield the planning system from potential future adverse impacts arising from similar events.

Key Questions

20. Whilst the Department welcomes comments on any aspect of the Act, (together with other information and evidence that may assist in the forthcoming review) it is particularly keen to hear views on the provisions for Local Development Plans (Part 2), Planning Control (Part 3), Additional Planning Control (Part 4) and Enforcement (Part 5), as set out in the following key questions:

Part 2 – Local Development Plans

Q.1. Do you believe there is a need to retain, amend or repeal any provisions of Part 2 of the Act or associated subordinate legislation with regard to the delivery of Local Development Plans?

Q.2 Do you believe there are any improvements which may be made to the way in which local development plans are implemented?

Parts 3 & 4 – Planning Control and Additional Planning Control

Q.3 Do you believe there is a need to retain, amend or repeal any provisions of Part 3 or Part 4 of the Act or associated subordinate legislation with regard to the Planning and Additional Planning Control?

Q.4. Do you believe there are any improvements which may be made to the way in which planning control is implemented?

Part 5 - Enforcement

Q.5 Do you believe there is a need to retain, amend or repeal any provisions of Part 5 of the Act or associated subordinate legislation with regard to the Enforcement?

Q.6. Do you believe there are any improvements which may be made to the way in which planning enforcement is implemented?

COVID-19 Recovery

Q.7 Do you believe there are any changes to planning procedures in general which could safeguard the system against potential future adverse impacts associated with emergency situations, such as that currently being experienced as a result of COVID-19 pandemic?

Other Parts of the 2011 Planning Act.

Q.8 Do you believe there is a need to retain, amend or repeal any provisions of other parts of the 2011 Planning Act, or associated subordinate legislation?

Please provide information or evidence to support your answers.

Next steps

21. Responses to this Call for Evidence should be made to the Department by 4.00pm, Monday 15 March 2021.
22. The information gathered as a result of this Call for Evidence will be considered by the Department and will help inform the first review.
23. Any recommendations emerging from the first review which might involve legislative changes will follow the normal policy development process including public consultation on any draft proposals and Assembly scrutiny where appropriate.

ANNEX

CALL FOR EVIDENCE REVIEW OF THE IMPLEMENTATION OF THE PLANNING ACT (NI) 2011.

RESPONSE FORM

YOUR DETAILS

Title:	Mrs
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YOUR COMMENTS

Please provide us with your comments below. Please be as concise as possible and where appropriate provide evidence to support your comment.

Local Development Plans

Q.1. Do you believe there is a need to retain, amend or repeal any provisions of Part 2 of the Act or associated subordinate legislation with regard to the delivery of Local Development Plans?

Detail relevant provisions:

Part 2 of the Planning Act (Northern Ireland) 2011

The Planning (Local Development Plan) Regulations (Northern Ireland) 2015

Supporting Comments:

One of the key aims of the reform of the Planning System is to transfer the majority of planning functions to the newly formed councils. The objective of Part 2 of the Act was for councils to develop and adopt their own LDPs. However, the requirements that councils must go through, as set out in the Regulations, make it extremely difficult for councils to develop their 'own' plans. The requirement for the Council's plan to take account of any policy or advice contained in guidance such as the SPPS and other government documents makes it extremely difficult in most instances to diverge from the policies contained within the SPPS thus resulting in the regurgitation of the policies contained within the SPPS and PPSs. This does not result in a council plan nor does it allow councils to place-shape for local needs in their council area.

Section 13 – Review of local development plan.

A council must carry out a review of the local development plan. However there is a requirement to report on the findings to the Department. As this is council's plan it is unclear why council is required to report on its reviews to the Department. Oversight from DfI at this stage of review is unnecessary and must allow for Council to determine if a revision is necessary.

Section 14 – Revision of plan strategy or local policies plan.

It is a matter for council to determine whether it considers it necessary to carry out a revision to its LDP as a result of the review. Section 16 provides the Department with the failsafe that if it considers the council is failing or omitting to do anything it may prepare or revise the document.

Planning (Local Development Plan) Regulations (Northern Ireland) 2015 – short-term improvements

Reg 2 – local advertisement should be either on the council website and social media. We are operating within the digital era and should be moving to provide information electronically in accordance with the Reg 4 of the Environmental Information Regulations 2004 - progressively make the information available to the public by electronic means which are easily accessible. It is acknowledged, however, that there are areas within the Borough which remain to have poor broadband coverage, and consideration must be included in terms of how the ratepayers in these areas can access information.

Reg 6 – the timetable should only refer to the stage of the LDP process that is currently under preparation i.e. the Plan Strategy or Local Policies Plan. It is meaningless to include a timetable for example the local policies plan when only at plan strategy stage as there are too many unknowns in relation to timeframes such as independent examination, report and response.

Reg 8, 10, 15, 17, 19, 22, 23, 27, 28, 29 – There should no longer be a requirement that the timetable/Preferred Options Paper/Supporting Documents/plan document/representations/counter representations/notice of independent examination/notice of withdrawal/adopted plan/annual monitoring report/review/intervention/default power must be made available for inspection during office hours or notice by local advertisement. To move with changes in how we normally communicate i.e. electronically and the digital era we are now in, a copy of the timetable/Preferred Options Paper, supporting documents, should be made available electronically to view. It should not be necessary for the public to enter buildings in order to view a document. This will also future proof processes and procedures for any future disruption to

access to buildings. However, it is acknowledged that there remain areas where broadband cover remains poor and documentation can still be available to view in Council buildings.

Reg 15 – What is the purpose of submitting the plan document etc to the Department prior to the Planning Appeals Commission. It is for the PAC to report on whether they consider the Plan to be ‘sound’ and report to DfI.

Reg 21 – this appears to be duplication of the ‘making available documents’ already carried out by council.

Q.2 Do you believe there are any improvements which may be made to the way in which local development plans are implemented?

Supporting Comments:

The requirement to compile all the evidence required under the legislation results in a very slow and costly process. The cost to council in commissioning retail surveys, landscape character assessments, SAs and SEAs, due to lack of experience of staff transferred from central government is likely to result in the 2 stage LDP costing council in the region of £2m, including staff costs. This is certainly not considered value for money when account is taken of the lack of flexibility councils have to divert from central government policies.

The complexity of the process to adopt the 2 stage plan is overly cumbersome and slow. Six years after transfer of functions, not one Plan Strategy has been adopted never mind a complete 2 stage LDP.

The process to adopt a two stage council LDP requires a fundamental review. Consideration needs to be given to streamlining the process and the detail of LDPs. The detail within draft Plan Strategies is excessive and repetitive of existing regional policy. The level of detail and evidence provides little flexibility to adjust to emerging or novel issues unless a review of the topic is undertaken. This in itself is cumbersome and slow. The Plan documents should revert to a single document with a single independent examination. This will reduce time and costs in the preparation and ensure a more up-to-date plan.

Engagement with stakeholders and the public is not future proofed. No provision has been made for digital consultation and the provision of documentation by digital means. The current pandemic has alerted us to the necessity to be able to engage on a digital platform and providing more of what we do electronically, moving to a paperless system. If we are striving for sustainable living, we should be leading by example in our processes by moving away from the requirement for face-to-face communication and hard copy provision of information and instead embrace the new forms of digital communication as has taken place for Pre Application Community Engagement for major planning applications during the Covid pandemic.

Planning Control and Additional Planning Control

Q.3 Do you believe there is a need to retain, amend or repeal any provisions of Part 3 or Part 4 of the Act or associated subordinate legislation with regard to the Planning and Additional Planning Control?

Detail relevant provisions:

The Planning Act (Northern Ireland) 2011

Sec 6(4) and 45 (1)

Sec 25

Sec 40

Sec 41

Sec 45

Sec 46 (4) and 92

Sec 55

Sec 56

Sec 59

Sec 67

Sec 79

Sec 105

Sec 129

The Planning (General Development Procedure) Order (Northern Ireland) 2015 - referred to as GDP Order in supporting comments.

The Planning (General Permitted Development) Order (Northern Ireland) 2015 - referred to as GPD Order in supporting comments.

The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2019 - referred to as Fees Regs in supporting comments.

The Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015

Supporting Comments:

Sec 6(4) and 45(1) – contradiction in wording. In making a determination sect 6(4) states it must be in accordance with the local development plan but sect 45(1) states must have regard to. This is confusing and there should be consistency in wording.

Sec 25 – Hierarchy of development. The local category of development covers a wide range of application types from minor household extensions to housing developments up to 49 units and poultry sheds which are often quite complex in nature. A third hierarchy of development should include these more complex application types with a statutory timeframe suitably developed to reflect the complexity of issues within this new hierarchy.

Sec 41 and Art 8 of GDP Order – notice of applications. In accordance with Reg 4 of the Environmental Information Regulations 2004 - progressively make the information available to the public by electronic means which are easily accessible – advertisement of applications should be electronically via council website and social media. Advertisement currently costs council in the region of £30k per annum. Notification of application via post is costly for councils and often letters are returned undelivered. Notification should be similar to the provisions in the Republic of Ireland i.e. by site notice, which brings it to the attention of all passers-by rather than those within the tight legislative constraints.

Sec 45(1) and (3) – determination. Legislation should set out a deadline for the submission of additional information and representations. Too often letters of representation or further information by agents/applicants are submitted late in the process or continually throughout the processing of the application. Case officers do not get the 'breathing space' to make recommendations on the applications and increasingly the process is being manipulated as a method of delaying the determination of the application. Furthermore, representations/additional information are being received immediately prior to Planning Committee meetings or immediately afterwards resulting in further consideration at this late stage. Therefore, in order to achieve process improvements, deadlines for receipt of representations/additional information should be set out in order for compliance under Sec 45(1) that material considerations have been taken into account in the determination of the application.

Sect 46(4) and 92 – subsequent applications/consents. The more than one application should include withdrawn applications. Frequently, applicants withdraw their planning application rather than awaiting the refusal decision issuing. This enables them to submit a subsequent application for the same proposal with the intention of gaining approval.

Sec 55 and Fees Regs – retrospective applications. Applications where the development has already taken place should be subject to an increased fee in comparison to similar applications where the applicant has applied prior to carrying out development. This is particularly important for retrospective EIA development to act as a deterrent to carrying out development that is likely to have an environmental impact prior to seeking permission.

Sec 56 – Directions. Council should also have the provision to issue a direction via a development order. This would make provision for councils to set timeframes for example the receipt of representations/ additional information to planning applications as detailed above.

Sec 59 – Appeals. Sec 59(1) and 59(2) are contradictory. Sec 59(1) states that a party to proceedings is not to raise any matter which was not before council at the time of the decision unless the 2 criteria are met. However, Sec 59(2) states that nothing in 59(1) affects the

requirement to have regard to other material considerations. Too often appellants submit new information to the PAC that was not submitted to council at the time of the decision and PAC accept under Sec 59(2) as material consideration. This goes against the thrust of Sec 59 which was to prevent the submission of new information that should have been submitted in the first instance to council during the processing of the application. This contradiction should be removed.

Sec 79 – council application. Inconsequential applications made by council such as fences, lamp standards, street furniture, should not be required to be determined by Planning Committee. This adds undue delay to determination of minor applications that have minimal impact on value of council assets.

Sect 105 – demolition in Conservation Areas. Applications where the council is the applicant should be notification only if the decision is to approve.

Sec 126 – penalties for contravention of TPOs. Fine should be higher to act as a deterrent for removal of TPO trees to facilitate development.

Sec 129 – review of mineral planning permissions. This provision should be commenced and the Department implement the review as these permissions were largely approved or monitored by the former DoE. Councils do not have the resources or expertise to carry out such reviews.

Q.4. Do you believe there are any improvements which may be made to the way in which planning control is implemented?

Supporting Comments:

The Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015

Statutory Performance Indicators should be reviewed to take account of quality decisions rather than the speed at which an application can be moved through the process. The focus on speed rather than quality will result in a negative impact on terms of the quality of our built environment moving forward. We should be encouraging good design and designing buildings to reflect the character of the area within which they occupy instead of rushing through poor design in an effort to beat the clock. Furthermore, the 'clock' should be stopped, similar to that in England, whilst waiting for further supporting information or amendments being submitted on a planning application. This would clearly reflect the time taken to process the application rather than including inactive periods awaiting submissions.

The Planning (Fees) (Amendment) Regulations (Northern Ireland) 2019 require to be reviewed to reflect the cost to council in processing the various types of planning applications. Fees should also be included for non- applications such as CLUDs, NMCs, Discharge of Conditions and PADs as these also take resources to process. Furthermore, consideration should be considered to increase the fees for retrospective application as a deterrent to those carrying out development without the benefit of planning permission.

The Planning (General Permitted Development) Regulations (Northern Ireland) 2015 should also be reviewed. Clarification is required in terms of the interpretation of a site of archaeological interest. If this is to include sites of archaeological potential they will exclude permitted development in large urban areas. Clarification is also required in reference to World Heritage Site – does this include the distinctive landscape setting or simply the boundary of the WHS designation?

Part 1 of Schedule should be simplified as it is overly detailed for the general public to fully understand what they can and cannot do under permitted development.

Part 5, Class B(1)(a) remove restriction within the curtilage of a building. If temporary buildings and uses are allowed for 28 days in total in any calendar year it is irrelevant whether it is within the curtilage of a building or not. There are instances when this would be more acceptable than in an open field, for example, within the curtilage of a community building or educational building.

Part 28 – remove reference to on crown land. This was also an issue during covid for emergency buildings to assist with the pandemic that were not necessarily on crown land.

Enforcement

Q.5 Do you believe there is a need to retain, amend or repeal any provisions of Part 5 of the Act or associated subordinate legislation with regard to the Enforcement?

Detail relevant provisions:

Part 5 - Sec 157

Part 14 - Sec 245

Supporting Comments:

Part 5 Sec 157 – listed buildings enforcement notices. The time period for immunity of 9th December 1978 is too long. With the second survey of listed buildings nearing completion, the time period of immunity of carrying out unauthorised works to listed buildings should be amended from what is now 41 years to 10 years as any unauthorised works should have been picked up during the second survey.

Part 14 - Sec 245 – statutory charges register. This should include breach of condition notices as those purchasing land with BCNs in place may not be aware and assume responsibility for compliance.

Q.6. Do you believe there are any improvements which may be made to the way in which planning enforcement is implemented?

Supporting Comments:

COVID-19 Recovery

Q.7 Do you believe there are any changes to planning procedures in general which could safeguard the system against potential future adverse impacts associated with emergency situations, such as that currently being experienced as a result of COVID-19 pandemic?

Detail relevant procedures:

The Planning (General Development Procedures) Order (Northern Ireland) 2016

The Planning (Local Development Plan) Regulations (Northern Ireland) 2015

Supporting Comments:

GDP Order - Art 8 - In accordance with Reg 4 of the Environmental Information Regulations 2004 - progressively make the information available to the public by electronic means which are easily accessible – advertisement of applications should be electronically via council website and social media. Advertisement currently costs council in the region of £30k per annum. Notification of application via post is costly for councils and often letters are returned undelivered. Notification should be similar to the provisions in the Republic of Ireland i.e. by site notice, which brings it to the attention of all passers-by rather than those within the tight legislative constraints.

LDP Regs - There should no longer be a requirement that documents must be made available for inspection during office hours or notice by local advertisement. To move with changes in how we normally communicate i.e. electronically and the digital era we are now in, a copy of the documents should be made available electronically to view. It should not be necessary for the public to enter buildings in order to view a document. This will also future proof processes and procedures for any future disruption to access to buildings.

Other Parts of the 2011 Planning Act

Q.8 Do you believe there is a need to retain, amend or repeal any provisions of other parts of the 2011 Planning Act, or associated subordinate legislation?

Detail relevant provisions:

Part 6 - Sec 185

Part 7 - Sec 197

Part 12

Part 14 - Sec 245

Supporting Comments:

Sec 185 and 197 – compensation. Provision council to be liable to pay compensation should be removed especially in relation to cases where immediate environmental damage is has occurred/likely to occur. The liability of paying compensation is a strong deterrent to councils issuing stop notices.

Part 12 – correction of errors. This provision should be commenced to allow for minor amendments to decisions notices such as an incorrect drawing reference to be rectified.

Part 14 - Sec 245 – statutory charges register. This should include breach of condition notices as those purchasing land with BCNs in place may not be aware and assume responsibility for compliance.