

PUBLIC CONSULTATION

Review of The Planning (Development Management) Regulations (Northern Ireland) 2015

Date: December 2023



© Crown copyright, Department for Infrastructure, 2023

You may use and re-use this information (not including logos) under the terms of the Open Government Licence.

Email enquiries regarding the re-use of this information to: psi@nationalarchives.gsi.gov.uk

Contents

1	Responding to this consultation document	
	How to respond.....	4
	Freedom of Information Act 2000	5
	Impact Assessments.....	6
2	Introduction	
	Purpose of the Consultation.....	7
	Structure of the Consultation Document.....	8
	Details of the Respondent	9
3	Review of regulations 2, 3 and the Schedule (Major Development Thresholds)	
	Introduction.....	10
	Key Issues.....	12
	Potential Changes.....	12
4	Potential Changes to regulation 5 Pre-Application Community Consultation	
	Introduction.....	23
	Key Issues.....	24
	The Proposed Options.....	25
5	Potential Changes to regulation 7 Pre-Determination Hearings	
	Introduction.....	29
	Key Issues.....	29
	The Proposal.....	30

Responding to this consultation document

The Department for Infrastructure would like to invite views from the public and stakeholders on potential changes to **The Planning (Development Management) Regulations (Northern Ireland) 2015** (the Development Management Regulations), as set out in this document.

Consultation Period

The consultation will run for 12 weeks from **11th December 2023** until **3rd March 2024**.

How to Respond

The best way to respond to this consultation is **online** via the **NI Direct - Citizen Space** website using the link below:

<https://consultations2.nidirect.gov.uk/dfi-1/review-of-the-planning-development-management-regu>

Copies in other languages and formats, (including Braille, large print etc.), can be made available on request. If it would assist you to access this document in an alternative format or language other than English, please contact us using the e-mail or postal address below or by calling 0300 200 7830.

General written responses should reflect the structure of the consultation document as far as possible with references to question numbers where relevant. Where these cannot be submitted via Citizen Space, they can be sent to us by:

1. E-mail:
Legislation.Planning@infrastructure-ni.gov.uk
2. Post:
Public Consultation
Review of The Planning (Development Management) Regulations (NI) 2015
Regional Planning Governance and Legislation
Room 1-08, Clarence Court
10-18 Adelaide Street
Belfast BT2 8GB

The Department will not accept any submissions or comments received after **3rd March 2024**.

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 address above.

Freedom of Information Act 2000 - Confidentiality of Responses

The Department may publish a summary of responses following the closing date for receipt of comments. Your response, and all other responses to this publication, may be disclosed on request and/or made available on the DfI website (redacted). The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of responses as this will give you guidance on the legal position about any information given by you in response to this publication.

The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) give the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this publication, including information about your identity, should be made public or treated as confidential. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided.
- The Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature.
- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

The information you provide in your response, excluding personal information, may be published, or disclosed in accordance with FOIA or EIR. Any personal information you provide will be handled in accordance with the UK-GDPR and will not be published. If you want the

non-personal information that you provide to be treated as confidential, please tell us why, but be aware that, under the FOIA or EIR, we cannot guarantee confidentiality.

For information regarding your personal data, please refer to the DfI Privacy Notice at www.infrastructure-ni.gov.uk/dfi-privacy.

For further details on confidentiality, the FOIA and the EIR please refer to www.ico.org.uk.

Impact Assessments

Government bodies are required to screen the impact of new policies and legislation against a wide range of criteria, including equality and human rights.

Equality Impact Assessment Screenings and an Initial Preliminary Regulatory Impact Assessment have been undertaken and are available to view or download from the Citizen Space web link or the Department's website at the link above.

The Department believes that there would be no differential impact in rural areas or on rural communities. It also considers that the proposals laid out in this document are fully compliant with the Human Rights Act 1998.

The Department welcomes views and comments on whether the conclusions contained in the above assessments are correct.

1 Introduction

1.1 This consultation invites views from the public and stakeholders on potential changes to **The Planning (Development Management) Regulations (Northern Ireland) 2015** (the Development Management Regulations). These potential changes focus on the following aspects of the Development Management Regulations:

- regulation 2 (Hierarchy of developments)
- regulation 3 (Department's jurisdiction in relation to developments of regional significance)
- regulation 5 (Pre-application community consultation)
- regulation 7 (Pre-determination hearings)
- Schedule (Major development thresholds)

1.2 Changes to the Development Management Regulations are part of a wider package of measures delivering change through the **Planning Improvement Programme**¹ (PIP), brought forward by the Department for Infrastructure (the Department), local government and other stakeholders. The aim is to create an efficient, effective and equitable planning system, trusted to deliver high quality, sustainable inclusive and healthy places.

1.3 The PIP includes actions and measures recommended through the review of the implementation of The Planning Act (Northern Ireland) 2011 (the 2011 Act), which was required under section 228 of the 2011 Act. The recommendations emerged from numerous proposals, suggested revisions and recommendations for change or improvement submitted following the Call for Evidence².

1.4 In relation to the Development Management Regulations, the Department confirmed in its Review Report³ it would undertake the following three actions:

(PT3-1) Classes of development & thresholds

The Department will review existing thresholds and categories of development to determine the need for revisions.

¹ <https://www.infrastructure-ni.gov.uk/topics/planning/planning-improvement-programme>

² <https://www.infrastructure-ni.gov.uk/consultations/review-implementation-planning-act-ni-2011-call-evidence>

³ <https://www.infrastructure-ni.gov.uk/publications/review-planning-act-ni-2011-report>

(PT3-10) Pre-determination hearings (PDHs)

The Department will bring forward proposals to make all PDHs discretionary for councils in the exercise of their functions. This will require amendments to subordinate legislation.

(PT3-3) Provide for both in-person and on-line/electronic PACC public engagement

The Department will bring forward proposals to provide for both in-person and on-line/electronic Pre-Application Community Consultation (PACC) public engagement. This will include consideration of any recommendation to emerge from the work of the Planning Engagement Partnership.

Structure of the Consultation

- 1.5 This consultation sets out the aims and potential issues for each of these actions and seeks views and feedback on any potential changes that may or may not be required.
- 1.6 Section 2 of this consultation document explores the aims and key issues supporting regulations 2 and 3 relating to the hierarchy of development, which provide the thresholds and criterion for major development, and developments prescribed for the purpose of section 26(1) of the 2011 Act. It outlines a series of questions exploring whether the classes of development and their thresholds and criterion as set out in the Major Development Thresholds Schedule should be amended. The aim is to ensure they are relevant, fit for purpose and take account of future development trends.
- 1.7 Section 3 explores the aims and objectives of the PACC process outlined in regulation 5 of the Development Management Regulations. It outlines proposals to introduce online / digital techniques into the PACC process and invites feedback accordingly.
- 1.8 Section 4 explores the objectives for PDHs which are provided for in regulation 7 of the Development Management Regulations. It outlines the key issues highlighted through the review of the implementation of the 2011 Act and the Department's proposal to makes these hearings discretionary.

Details of the Respondent

Q.1: Respondent Information:

Are you responding as an individual or an organisation?

Individual

Organisation

Please provide your organisation's name:

2 Review of regulations 2 and 3, and the Schedule (Major Development Thresholds)

Introduction

- 2.1 Section 25 of the 2011 Act introduced a hierarchy of development within the planning system, establishing development as one of two categories, major or local. The aim of the hierarchy is to encourage a more proportionate and responsive approach to processing planning applications, with resources and decision-taking mechanisms tailored according to the scale and complexity of the proposed development⁴.
- 2.2 Proposals for major development, which tend to be more economically and socially significant are likely to 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.
- 2.3 The Development Management Regulations set out the classes of development and the relevant thresholds or criterion for each category. The thresholds provide clarity for prospective applicants and councils about which process a proposed development should follow and which developments require consultation with the community during the pre-application phase.
- 2.4 In the Development Management Regulations, there are nine classes of development identified in Column 1 of the table in the Schedule (Major Development Thresholds) each with a threshold or criterion to establish major development. They also identify major development which may be considered regionally significant under section 26(1) of the 2011 Act.

Major Development

- 2.5 Major developments have important economic, social, and environmental implications for a council area. With potential to deliver important benefits for the local community, planning applications for major development will be given appropriate priority to avoid undue delay and risk to investment decisions⁵.

⁴ Para 5.40 Strategic Planning Policy Statement (SPPS)

⁵ Para 5.45 Strategic Planning Policy Statement (SPPS)

- 2.6 Regulation 2 of the Development Management Regulations confirms that major development is the relevant class of development which meets or exceeds the threshold or criterion outlined in Column 2 of the table in the Schedule. Planning applications for major development are submitted to the appropriate council, however they can also be called-in for determination by the Department under section 29 of the 2011 Act.
- 2.7 All major development is subject to section 27 of the 2011 Act and PACC must be undertaken prior to the submission of the planning application. In defining the classes and thresholds for major development, the aim is to achieve a balanced approach to the types of application that would most affect the community without over-burdening users of the system or the public by over-consultation.
- 2.8 Community consultation is an essential part of an effective and inclusive planning system. The aim of PACC is to inform local communities about forthcoming development proposals and allow them the opportunity to view and comment on the emerging design proposals before a formal planning application is submitted. The intention is to add value and improve the quality of the proposed development, by addressing community issues, improving understanding, and mitigating potential negative impacts, where possible⁶. The process aims to encourage trust and more open, positive working relationships from the earliest stages in the development management process.

Major Development of regional significance

- 2.9 Regionally significant developments 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. They also include developments which potentially have significant effects beyond Northern Ireland or involve a substantial departure from a local development plan (LDP)⁷.
- 2.10 Regulation 3 of the Development Management Regulations confirms that development prescribed for the purposes of section 26(1) of the 2011 Act is major development which meets or exceeds the threshold or criterion outlined in Column 3 of the relevant class of development within the Schedule to the Development Management Regulations. Where the thresholds are met or exceeded it does not automatically equate to the application

⁶ Development Management Practice Note 10 - <https://www.infrastructure-ni.gov.uk/publications/development-management-practice-notes>

⁷ Para 5.44 Strategic Planning Policy Statement (SPPS)

being considered regionally significant, it is a prompt to enter into consultations with the Department and follow the procedures outlined in section 26 of the 2011 Act.

2.11 Planning applications for major development deemed regionally significant⁸ are submitted to and determined by the Department. They are also subject to section 27 of the 2011 Act and require PACC.

Local Development

2.12 Local developments comprise of all other developments (other than permitted development⁹) that do not fall within the classes described for major or for regionally significant developments in the Schedule to the Development Management Regulations. The vast majority of local development proposals are for residential and minor commercial applications and are determined by councils.

Key Issues

2.13 Through the Call for Evidence for the review of the implementation of 2011 Act respondents raised several issues in relation to regulations 2 and 3 and the Schedule to the Development Management Regulations, namely:

- the current hierarchy of development should be reviewed;
- the classes of development and the corresponding thresholds / criterion for major and regionally significant development should be reviewed to ensure they take account of current and future development trend; and
- the review should also consider a third category, sub-dividing the 'local' category.

2.14 In response to these issues, the Department confirmed in its January 2022 Review Report¹⁰ that it would review the existing thresholds and categories of development to determine the need for revisions.

Potential Changes

2.15 The objective of the consultation is to explore what revisions may be required, if any, to the classes of development and the corresponding thresholds in the Schedule for major and regionally significant development, to ensure they remain fit for purpose and relevant for current and future development trends. The questions on classes and thresholds

⁸ Confirmed by a notice issued under section 26(4) of the Planning Act (NI) 2011

⁹ <https://www.legislation.gov.uk/nisr/2015/70/contents/made>

¹⁰ <https://www.infrastructure-ni.gov.uk/publications/review-planning-act-ni-2011-report>

focus on gathering key issues and concerns in the operation of the development hierarchy. Building on the information received through the Call for Evidence referred to above, an important part of this focused public consultation is garnering views, feedback and user experiences from the public to identify and inform any potential changes that may be required.

2.16 In addition, since the Development Management Regulations were introduced in 2015, new technologies and types of developments have been emerging which do not fall clearly into the current classes of development. Similarly, it is timely to evaluate whether the current thresholds are reasonable and proportionate to enable local communities to engage on complex development proposals which may impact them, whilst ensuring there is a balanced approach to timely decision-making. Recent legal proceedings have also highlighted operational issues which need to be addressed, to ensure that local communities are given an opportunity to engage in the pre-application planning process.

2.17 To assist in preparing this consultation, a targeted pre-engagement exercise was undertaken in June 2023 with the councils and the Department for the Economy (DfE) to explore their operational experience of the classes of development and thresholds to date. The respondents provided useful feedback, which has helped shape some of the questions in this consultation.

2.18 The Department is also examining the current categories within the hierarchy of development to establish whether the category of local development should be subdivided further to reflect performance targets more appropriately for councils in determining planning applications. Performance of a council's planning functions is principally measured against the processing of major and local applications. However, there is a considerable variation in the types of development proposal within the local category which can distort resource requirements, processing times, and performance targets. Work being conducted by councils on development management processes and procedures should provide further clarity on this issue. As such, it does not form part of this public consultation.

2.19 The Department welcomes comments on any aspect of regulations 2 and 3, and the Schedule (together with other information and evidence that may assist with the review), however having distilled the key issues from the pre-engagement exercise, it is

particularly keen to hear views on the following key questions relating to Classes 2, 7, and 9 in the Schedule.

Class 2 Energy Infrastructure

Energy infrastructure currently incorporates several sub-classes of development including electricity generating stations, electrical power lines, storage, extraction, and pipelines. Each sub-class has a different threshold for both major development and consideration as regionally significant development under section 26(1) of the 2011 Act.

It is anticipated that new and improved energy infrastructure will be required to meet Northern Ireland's net zero climate change commitments. The Northern Ireland Energy Strategy 'Path to Net Zero Energy'¹¹ set a target of at least 70% electricity consumption from renewable sources. The Climate Change Act (Northern Ireland) 2022¹² set a target of at least 80% electricity consumption from renewable sources by 2030.

Whilst the growth in traditional renewable energy technologies, such as wind and solar is likely to continue, new viable energy technologies and solutions may emerge in the coming years which merit new or adapted energy infrastructure sub-classes. In tandem, it is likely that new electricity support technologies and infrastructure may also be required to support a flexible and resilient renewables-based electricity network.

Q.2: Do you consider that the *current sub-classes* and associated *definitions* within the class of Energy Infrastructure remain relevant, and encompass emerging technologies and future development trends?

Yes No

If no, please provide information on suggested changes to the sub-classes and their descriptions, including where relevant potential technologies, proposed thresholds / appropriate measurements to identify these as major and regionally significant development.

¹¹ <https://www.economy-ni.gov.uk/articles/northern-ireland-energy-strategy-path-net-zero-energy>

¹² <https://www.legislation.gov.uk/nia/2022/31/enacted>

In relation to **electricity generating stations**, the pre-engagement with councils and DfE indicates a strong support for a review of the current megawatts (MW) thresholds, to ensure that they remain relevant, take account of emerging energy technologies, and support renewable energy targets. Submissions received through the Call for Evidence and some councils have suggested that the current MW thresholds for electricity generating stations could be increased.

Q.3: Do you consider that the current MW thresholds for electricity generating development should be revised?

Yes No

If yes, please outline suggestions for change and explain your reasoning.

In England, there are separate thresholds for wind energy proposals and all other onshore electricity generation stations. The technology for wind energy infrastructure has been developing at pace in recent years as more powerful and efficient turbines are able to enhance generation capacity. In their pre-engagement feedback, some councils and DfE felt this approach should be considered as part of this review.

In considering wind energy developments, it is important to establish clear and robust thresholds for identifying proposals as either major or regionally significant development. A simple MW threshold is only an approximation of the size and visual impact of a wind

energy development. Following pre-engagement advice from DfE, additional or alternative threshold criteria and measurements are being considered, for example the number of turbines or geographical extents, which may better reflect potential impacts on local communities.

Q.4: Do you consider that separate thresholds for wind energy and electricity generation stations would be beneficial?

Yes No

If yes, please provide suggestions on thresholds and the appropriate measurements to identify major and regionally significant development and explain your reasoning.

Within Energy Infrastructure the **Storage** sub-class outlines descriptions for various types of products and chemicals/materials and associated thresholds for above ground and sub-surface storage installations. This encompasses the traditional containment of fuels, such as petrol, oils and other petrochemical products, as well as chemical and natural gas storage. There may be merit in adapting this sub-class to incorporate a wider range of gases and chemicals, such as ammonia and hydrogen to acknowledge the growth and development of clean energy solutions.

There may also be merit in developing this sub-class further to encompass a broader range of energy storage options which are likely to come forward in the coming years. At present, storage technologies and systems can range from chemical, electrical, thermal, electro-chemical and electro-mechanical incorporating projects such as battery energy storage systems (BESS), compressed air and liquid air storage, molten salt storage and aquifer thermal energy storage.

The various forms of storage are likely to have different characteristics and capabilities, and as such, may have different planning considerations and thresholds. For example, certain systems can be measured by both their power capacity (MW) which is the maximum amount of power which the installation can produce, and their energy capacity (megawatt-hour (MWh)) which is the amount of electrical energy which can be stored in the installation.

It is also acknowledged that some technologies and systems will have multifunctional roles – for example, battery energy storage systems can both store electrical energy and generate electricity. Such technologies may fall into more than one of the sub-classes within Energy Infrastructure.

Q.5: Do you consider it beneficial to adapt the sub-class of Storage to encompass emerging clean energy solutions and storage options which are likely to come forward in support of a decarbonised energy sector?

Yes No

If yes, please provide suggestions on potential options, proposed thresholds and the appropriate measurements to identify major and regionally significant development. If no, please explain your reasoning.

Q.6: For those energy technologies and systems which have multifunctional roles, please state below how these should be categorised within Energy Infrastructure and provide thresholds and appropriate measurements to identify major and regionally significant development.

Within the Energy Infrastructure sub-classes of **Extraction and Pipelines**, there are detailed definitions and associated thresholds for various types of proposals for above ground and sub-surface installations. This sub-class encompasses development descriptions and thresholds for the extraction of unconventional hydrocarbons, fuels such as petroleum, and natural gas. It also includes pipelines for the transport of a wide range of products. In recent years, there has been a focus on exploring geothermal heat as a potential clean energy source. Planning applications for development proposals within this sub-class are usually small in number however can be controversial.

Q.7: Do you consider that the current descriptions, thresholds and measurements for the sub-classes of Extraction and Pipelines, remain relevant and encompass emerging technologies and future development trends?

Yes No

If no, please provide suggestions for change, proposed thresholds and the appropriate measurements to identify major and regionally significant development.

Class 7 Retailing, Community, Recreation & Culture

The Development Management Regulations provide two sub-thresholds for major development for Use Classes A and D of the Planning (Use Classes) Order (Northern Ireland) 2015 (Use Classes Order), which cover shops, financial professional and other services, community, and cultural uses, as well as assembly and leisure. These thresholds were originally aligned with paragraph 36 of Planning Policy Statement 5 – Retailing and Town Centres (PPS5). The Strategic Planning Policy Statement (SPPS) supersedes PPS5 and indicates at paragraph 6.283 a similar threshold of 1000 square metres for out of centre development proposals.

The pre-engagement feedback from councils confirmed there was merit in revisiting the definition of this class of development and the corresponding threshold criteria.

Q.8: Do you consider that the current definition of Class 7 and the corresponding thresholds and criterion for major development are appropriate and relevant?

Yes No

If no, please suggest changes and explain your reasoning.

Q.9: Do you believe there is merit in amending this Class to relate solely to proposals for retail development (Part A, Use Classes Order), with a threshold of 1000 sqm or more of gross floor space outside the town centre?

In this scenario, proposals for the development of community, recreation and cultural uses would be considered under the Class ‘All other development’.

Yes No

Please explain your reasoning.

Class 9: All Other Development

Class 9 currently provides a general class for all other development which does not fall wholly within the Classes 1-8.

Following the judgment from Judicial Review 2021/NIQB96¹³, consideration has been given to clarifying the application of **Class 9 All other development**, in relation to mixed class development and all other development not currently within classes 1-8. Mixed class proposals comprise multiple elements which fall into more than one of the current classes 1-8 of the Schedule (Major Development Thresholds).

It is important that development proposals are correctly categorised within the Hierarchy of Development at the outset of the planning process. This provides applicants with clarity on the correct procedures to be followed, and it also enables local communities to engage with developers early in the planning process on those development proposals which are likely to impact them. In their pre-engagement feedback, councils also indicated support for clarification on the approach to mixed class or mixed-use development proposals.

To clarify the categorisation of all other classes of development, the Department is considering replacing the description of development in Column 1 of Class 9 (All other development) with the following text as set out below in Table 1:

¹³ <https://www.judiciaryni.uk/judicial-decisions/2021-niqb-96>

Table 1: Proposed amendment to Column 1 of Class 9 in the Schedule

<i>Description of Development (Column 1)</i>	<i>Major Developments Threshold or Criteria (Column 2)</i>	<i>Major Developments prescribed for the purpose of section 26(1) of the Planning Act (Northern Ireland) 2011 (Column 3)</i>
9. All other development Any development not falling within a class of development described in Parts 1 – 8 above.	a) development that comprises 5000 square meters or more gross floor space; or b) the area of the site is or exceeds 1 hectare.	

It should be noted that the thresholds and criteria in Column 2 of Class 9 will be considered following the feedback and views received through this public consultation.

The Department also intends to state that a mixed class development (consisting of two or more classes or sub-classes of development) will be categorised as major development where any part of that development meets or exceeds the applicable threshold or criterion for that class of development in the Schedule.

Q.10: Do you consider that the potential changes to Class 9, including the approach to mixed class development, will create a consistent, clear and robust approach to establishing major development?

Yes No

If no, please explain your reasoning.

Other Comments

Q.11: Do you have comments on any other aspect of regulations 2 and 3, and the Schedule (classes of development and corresponding thresholds or criterion)?

Yes No

If yes, please provide any comments and/or suggestions for change and explain your reasoning.

3 Potential Changes to regulation 5 Pre-application Community Consultation

Introduction

- 3.1 Section 27 of the 2011 Act introduced a requirement to undertake PACC before submitting a planning application for major development, as prescribed by the Development Management Regulations. It requires prospective applicants to submit a Proposal of Application Notice (PAN) outlining details of the applicant, the proposed development, its location and contact details. The council, or Department, may request further circulation of the PAN or additional consultation within 21 days of receipt. Section 27 of the 2011 Act also states that a planning application for major development must not be submitted until a minimum of 12 weeks have elapsed since submission of the PAN.
- 3.2 The Development Management Regulations specify that the PAN must include certain information, including the details of the consultation that the applicant proposes to undertake, with whom and in what form. It also requires prospective applicants to:
- hold at least one in-person public event in the locality of the proposed development;
 - publish a newspaper notice no earlier than 7 days before the public event; and
 - provide details of the proposed development, public event, how to provide feedback/comments, and how to obtain further information in the newspaper notice.
- 3.3 The objective of PACC is to inform local communities about forthcoming development proposals and allow them the opportunity to view and comment on the emerging design proposals before a formal planning application is submitted. The intention is to add value and improve the quality of the proposed development, by addressing community issues, improving understanding, and mitigating potential negative impacts, before the start of the statutory development management process. It aims to encourage trust and open working relationships from the outset of the planning application process. Engaging with communities is an essential part of an effective and inclusive planning system.
- 3.4 It is recognised that effective PACC with local communities can also lead to planning 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 council or Department.

Key Issues

- 3.5 In 2020, response to the COVID-19 pandemic, the Department made a legislative amendment to the Development Management Regulations¹⁴ which temporarily removed the requirement to hold an in-person public event as part of the PACC, during the emergency period. Alternative consultation methods included web/online based engagement, online consultation events, and an increased use of social media.
- 3.6 Feedback received through the Planning Engagement Partnership¹⁵ (PEP) indicated generally that the introduction of electronic / online options during the PACC process were a positive addition to the community engagement. It was felt that during the pandemic the online display of development proposals yielded numerous benefits, including:
- widening the sphere of community engagement by raising awareness of the proposals to a wider geographical audience;
 - altering the profile of those getting involved in planning to a younger demographic;
 - enhancing access to proposals for major development;
 - improving accessibility for those wishing to feedback comments to an applicant on a development proposal; and
 - using social media as a tool for signposting consultations and development proposals.
- 3.7 Through the Call for Evidence for the review of the implementation of the 2011 Act, respondents raised several issues in relation to online / digital engagement, endorsing the findings of PEP that consideration should be given to a 'blended' in-person and online approach to PACC following greater digital availability engagement.
- 3.8 The Department acknowledged that the temporary regulations introduced during the COVID-19 pandemic encouraged a greater use of digital technology, to provide information on development proposals and ultimately improve opportunities to participate and engage with the public and local communities. It committed to bringing forward proposals to provide for both in-person and online/electronic public engagement as part of the PACC process.

¹⁴ *The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020*
<https://www.legislation.gov.uk/nisr/2020/72/contents/made>

¹⁵ Report produced by the Planning Engagement Partnership [Planning Your Place: Getting Involved | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#)

3.9 In March 2022, PEP published a report '*Planning your Place: Getting Involved*' setting out practical recommendations to enhance the quality and depth of community engagement within the planning system. In association with PEP and Community Places, the Department has been exploring options to improve the PACC process. The focus is on understanding how more modern, inclusive and digital techniques can help raise awareness of future development proposals in local areas and provide greater opportunities for the public and stakeholders to participate in the pre-application process to influence decision making. The options proposals outlined in this section have been further informed by research undertaken by MSc Planning and Development students.

The Proposed Options

- 3.10 The importance of encouraging community participation in the planning process and enhancing opportunities to engage in the pre-application stage of developing proposals cannot be underestimated. Involving the community and enabling them to contribute their views to the development process can highlight important issues, address misunderstandings, and improve the quality of planning applications.
- 3.11 Following the COVID-19 pandemic, it is clear that the internet and digital media can facilitate online community engagement and playing an important role in enhancing community participation. Evidence from PEP has shown that it has facilitated greater participation by younger people in the planning process and it has helped raise awareness of development proposals beyond geographical boundaries.
- 3.12 This consultation seeks your views on two potential options for incorporating digital / online engagement into the PACC process, alongside in-person consultation events. The overall objective is to improve the pre-application process, by encouraging methods which will increase awareness of development proposals and enable greater opportunities for the public and stakeholders to participate in the pre-planning process. Garnering views and feedback from the public in relation to both options is an important part of developing the policy.

Option 1

- 3.13 Currently, regulation 5 of the Development Management Regulations requires an applicant to hold at least one public event in the locality in which the proposals are located. This option would place an additional requirement for prospective applicants to

display information on major developments and development subject to a notice under section 26(4) of the 2011 Act i.e., regionally significant development on a website during the pre-application phase.

- 3.14 The information would be displayed on a website maintained by the prospective applicant for a specified period of time during the pre-application consultation phase, prior to submission of the associated planning application. The newspaper advertisement and other media would be required to include the website address, in addition to all other requirements currently outlined in regulation 5(2) of the Development Management Regulations, including applicant details, information on the proposed development, site location, how to provide feedback, and the timelines for submitting comments.
- 3.15 The displayed information would include draft planning proposals, including drawings, site location, environmental reports, and design & access statement for the public to view and consider. The website would also have the facility to accept comments and feedback online and would provide information on how to contact the applicant in relation to queries.
- 3.16 It is anticipated that the date of the in-person public event would coincide with the live website. This would enable members of the public to view and consider the proposals online, with the option of attending the public event and engaging with the applicant to provide comments in person.
- 3.17 With this option, section 27(6) of the 2011 Act will remain unchanged. Councils and the Department retain the option of requesting additional consultation and notification within 21 days following receipt of the PAN, where deemed necessary.

Option 2

- 3.18 At present, regulation 5 of the Development Management Regulations requires an applicant to hold at least one public event in the locality in which the proposals are located. Option 2 seeks to vary this provision to introduce flexibility to the public event and places an additional requirement on prospective applicants to display information on all major developments on a website during the pre-application phase.
- 3.19 Option 2 retains the requirement for a public event, however, proposes to introduce an element of flexibility enabling it to be facilitated either as:

- a) an *in-person* consultation event held in the locality of the proposed development; or
- b) an *online* consultation event, where members of the public can attend virtually to engage with the applicant and provide comments on the proposed development.

3.20 In practice, the prospective applicant would propose the type of public event it believes to be the most appropriate based on the detail of the proposed development and its site location, and agreement would be sought from the council or Department as part of the PAN process. The requirements for publicity, advertising, and timelines set out elsewhere in regulation 5 would be adjusted accordingly within amended legislation.

3.21 This option also requires the pre-application consultation strategy to incorporate an element of online consultation. This online consultation would comprise the display of the draft development proposals on a website for a specified period of time, during the pre-application consultation phase, as outlined in sections 3.14 – 3.16 of this document. This would be added into regulation 5 of the Development Management Regulations and would apply to all proposed major development and development subject to a notice under section 26(4) of the 2011 Act i.e., regionally significant development.

3.22 With this option, section 27(6) of the 2011 Act will remain unchanged. Councils and the Department retain the option of requesting additional consultation and notification within 21 days following receipt of the PAN, where deemed necessary.

Q.12: Please indicate your preferred option and explain your reasoning below.

Option 1 Option 2 Neither Option

Q.13: Do you consider there to be an alternative option for incorporating online / digital engagement into the PACC process, which may be more beneficial?

Yes No

If yes, please provide outline this option and explain your reasoning.

4 Potential Changes to regulation 7 Pre-Determination Hearings

Introduction

- 4.1 Section 30(1) of the 2011 Act enables the Department to make regulations requiring councils to provide an applicant or third party the opportunity to appear before and be heard by the council prior to determination of a planning application.
- 4.2 Regulation 7(1) of the Development Management Regulations states that section 30(1) applies to developments subject to a direction under Article 17 of The Planning (General Development Procedure) Order (Northern Ireland) 2015, but where the Department has notified the council that it does not intend to determine the application under section 29(1) of the 2011 Act. The council facilitates a hearing following receipt of the Departmental notification, and prior to the council formally determining the planning application.
- 4.3 The objective of a PDH is to make the planning application process more inclusive and transparent. It allows an applicant and those who have submitted representations to a planning application the opportunity to appear before and be heard by the council before it reaches a decision. The meeting focuses on the material planning considerations and explores these to help the planning committee make its determination on the application.
- 4.4 In practice, PDHs are commonly convened for those planning applications which have a variety of complex issues, include wide-ranging policy considerations, have issues which are of interest to a substantial proportion of the population in the council area and/or attract large numbers of objections.
- 4.5 Under section 30(4) of the 2011 Act, councils also have the discretion to convene a PDH for any planning application that they will determine.

Key Issues

- 4.6 Through the Call for Evidence for the review of the implementation of the 2011 Act, respondents raised several issues in relation to regulation 7 of the Development Management Regulations and mandatory PDHs in particular. In summary, comments highlighted that the mandatory PDH hearings process added delay, increased cost and hindered council's performance.
- 4.7 In addition, responses also highlighted that:

- they should be a discretionary function only for councils to decide where, in their view, they would add value to the decision-making process;
- they add unnecessary administration and can add delay and cost to the process.
- the wording in section 30(1) of the 2011 Act is complicated and confusing;
- they extend the timeframe for a planning decision to be issued; and
- the requirement should be removed where the Department has returned a notifiable application, a previous PDH has been held, and there are no new material planning considerations.

4.8 The Department committed to bringing forward proposals to make pre-determination hearings discretionary for councils in the exercise of their functions.

The Proposal

4.9 The purpose of this consultation is to seek your views on the Department's proposal to remove the requirement for mandatory PDHs. Garnering views, feedback and user experiences from the public in relation to this proposed change is an important part of policy development.

4.10 The Department's overall objective for the proposed removal of mandatory pre-determination hearings, is to enable councils to have greater flexibility and control over when and how a PDH takes place which should ultimately lead to a more efficient, effective, transparent and inclusive planning service.

4.11 It is proposed that section 30(4) of the 2011 Act will remain to provide councils with the legislative mechanism to hold discretionary PDH for any planning application they will determine. Section 30(2) and (3) of the 2011 Act are referenced in section 30(4) in the context of providing the legislative requirement to provide procedures for PDH. In practice, the proposal would require regulation 7 of the Development Management Regulations to be revoked.

Q.14: Do you agree with the proposal to make Pre-Determination Hearings discretionary for councils?

Yes No

If no, please explain your reasoning.