

Place and Economy Department
Planning and Building Control



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Date: 26th February 2024

Dear Sirs or Madam,

Public Consultation – Review of the Planning (Development Management) Regulations (Northern Ireland) 2015

I refer to the above public consultation, which was considered by Belfast City Council's Planning Committee on 13th February.

The Council's response to the consultation is set out in this letter along with the Committee report, enclosed.

Review of classes of development

The consequence of development being classified as "Major" is twofold. Firstly, that the applicant is required to carry out formal pre-application community consultation before submitting the application to the council. Secondly, that the decision on the application cannot be delegated to officers but must be made by the planning committee.

In its consultation, DfI suggests that proposals for Major development '*...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.*' (par. 2.2).

However, this is not always the experience of the Planning Service. Applications for Local development, such as housing schemes of less than 50 residential units, can often be equally complex and raise more public interest issues than Major applications. Whilst the current thresholds for Major development are generally considered to be appropriate, consideration should be given to the requirement for mandatory secondary "lighter touch" pre-application community consultation on certain scale Local applications. Local applications can have a significant impact on local people, particularly in locations such as Belfast which comprise many areas of tight-knit and dense communities where changes to the built environment can have

considerable consequences. There should be a formal opportunity for those communities to engage with developers to help shape proposals for the better.

Conversely, there are examples of Major development proposals, such as larger commercial buildings on industrial estates, where the value of mandatory pre-application community consultation is questionable. There should be the provision for the council to advise that pre-application community consultation is not required in specific cases or for a council to be able to publish “local guidance” on when pre-application community consultation is necessary (this would be criteria based similar to a scheme of delegation).

The Council recognises that consideration of these issues cannot be separated from the work to date of the regional [Planning Engagement Partnership](#), which published its report: [Planning Your Place: Getting Involved](#) in March 2022. The report made various recommendations on how to improve public engagement in the planning process including the pre-application community consultation process.

It is noteworthy that the Council's Planning Service no longer places emphasis on whether a proposal falls under the “Major” or “Local” development categories, but whether a proposal is of “strategic” importance to the city. For example, there are many examples of Local applications which are of strategic significance to Belfast and Major applications which are not necessarily of strategic importance, classified as “technical Major applications” by virtue of their scale, particularly those relating to change of use of a large area of land.

Nevertheless, there is often a perception of the importance of a Major application and in this regard, the Department may wish to consider increasing the types of energy infrastructure development, particularly renewables, that fall within the Major development category in order that they are prioritised. Although this needs to be balanced against the commercial disadvantages of making applicants have to go through the 12-week Proposal of Application (PAN) process in terms of added time to the process when the regional objective is to facilitate such proposals in an efficient and timely manner.

The Council welcomes the proposed introduction of a “mixed development” category of Major development for the avoidance of any doubt – its Planning Service has experience of applicants trying to argue that their proposal is not Major development because it is a mixed-use scheme which does not fall within any of the specific current categories even though it is of considerable scale.

Following a High Court challenge, clarification should be provided in the updated regulations of the category of development that Battery Energy Storage Systems (BESS) fall under to avoid future potential confusion.

In relation to category 6 ‘Housing’, a significant upward change in the threshold for definition of major housing developments could result in virtually all residential developments proposed being classified as ‘local’ with resultant implications for the time available for processing and the removal of the need for pre-engagement processes such as PAD and PAN along with the requirement to consider masterplanning under Policy DES2 of the Belfast LDP Plan Strategy 2035. This would therefore not be supported.

Regarding category 7 ‘Retailing, Community, Recreation & Culture’, consideration should be given to splitting ‘Retailing’ into a separate category since retail development presents distinct issues from the other forms of development in this category including retail impact.

Consideration should be given to increasing the 1 ha threshold for Major developments to 2 ha as some Major applications are considered “technical Major applications” because of their scale but not their impact. Typically, this relates to proposals for a change of use of land or proposals such as “environmental improvements” relating to public realm.

The Council has no observations in relation to the current thresholds for consulting DfI on potentially regionally significant planning applications.

Pre-application Community Consultation

The Council recognises the significant merits of online and digital consultation in reaching a wider and in some cases younger population. However, it is considered that this should not be a substitute for face-to-face public events because of the value of in-person communication and commitment to genuine engagement that face to face meetings can demonstrate. The Council therefore supports “Option 1” of the consultation, which is to require both an in-person public event and online/digital consultation. Option 2, which is to give the developer discretion as to whether to carry out in-person consultation or online/digital consultation is not considered appropriate.

The requirements of the pre-application community consultation process should be re-examined having regard to the *Planning Your Place: Getting Involved* report. Consideration should be given to prescribing further publicity requirements including “leaflet drops” to local property and site notices to be erected by applicants.

It is also essential that pre-application community consultation is much more than a simple “tick box” exercise carried out by the applicant. The bar for Pre-Application Community Consultation (PACC) reports submitted with applications is arguably low. There must be a mandatory requirement for applicants to set out the views of local people and interested parties in the report, how they have responded to each of the points, and where changes were not made to address them, to clearly explain and justify the reasons why.

There should also be an automatic requirement for the applicant to notify the locally Elected Members for the area of the pre-application community consultation.

Pre-Determination Hearings

The Department is proposing to remove the requirement for councils to hold a Pre-Determination Hearing (which in turn triggers a further meeting of the Committee to retake the decision) when an application is returned to the council for determination following notification to DfI. The current requirement is an unnecessary and excessive administrative burden which adds to delays to the application process and creates considerable uncertainty for applicants, an anathema for investors.

The proposal to remove the requirement for statutory Pre-Determination Hearings under such circumstances and to instead give councils the power to hold a discretionary Pre-Determination Hearing is very much welcomed with Belfast City Council having lobbied for this change for many years.

Other points

The Council welcomes the proposal for a third category of development, perhaps titled “Minor” development, for smaller scale proposals such as householder,

advertisement, Listed Building Consent and Conservation Area Consent applications. This recognises that the definition of “Local” development is currently far too wide, ranging from an application for single storey extension or satellite dish to 49 dwelling units, and does not permit meaningful interrogation of performance. There should in turn be an even shorter statutory target for determination of such Minor applications, which is less than the 15 weeks average processing time currently prescribed to Local applications.

Consideration should also be given to removing the requirement for all applications for Major development to be decided by a planning committee. This should be a matter for each council to decide and set out in its scheme of delegation.

The regulations relating to schemes of delegation should also be amended. Unlike in NI, there is no requirement in England and Wales for councils to have their schemes of delegation approved by central government. This is a localised decision-making matter and the current requirements are one of too many examples of the Department’s over-interventionalist role in the planning system. The Department could perhaps amend the legislation to enable it to intervene if it considers that an individual council’s scheme of delegation is inappropriate. In practice, it is questioned how many times the Department has not approved a council’s scheme of delegation since 2015.

Importantly, the Council’s proposed response to this focused consultation should not be considered to conclude that these regulations (and others applicable to the development management process) do not need further consideration and potential amendment.

I trust that this feedback to the consultation is constructive and helpful. Please let me know should you require any clarification or further information.

Yours faithfully,

Ed Baker
Planning Manager (Development Management)