



## Belfast City Council

Report to:	<b>Strategic Policy and Resources (Transition) Committee</b>
Date:	<b>Friday, 7<sup>th</sup> August, 2009</b>
Subject:	<b>Department of the Environment Consultation on Planning Reform</b>
Reporting Officer:	<b>Gerry Millar, Director of Improvement</b>
Contact Officers:	<b>Kevin Heaney, RPA Co-ordinator</b>

### **Purpose of Report**

To inform the Committee of the consultation document which has been issued by the Department of the Environment entitled '*Reform of the Planning System in Northern Ireland*' and to seek approval for proposals on how the Council will formulate a response to the consultation.

### **Background Information**

In July this year the Department of the Environment published the '*Reform of the Planning System in Northern Ireland*' consultation which sets out the measures the Department proposes to take to reform the planning system in Northern Ireland in the medium to longer term. The consultation sets out proposals to make the changes required to implement the decisions taken under the Review of Public Administration which will result in the majority of planning functions returning to local government.

A copy of the consultation paper is available on the Department's website:-  
[www.planningni.gov.uk/index/news/news\\_consultation/consultation\\_paper\\_final\\_200709.pdf](http://www.planningni.gov.uk/index/news/news_consultation/consultation_paper_final_200709.pdf)

Members are asked to note that the Department is also holding a series of stakeholder events across Northern Ireland in relation to this consultation. The Belfast event is taking place on **Friday 11<sup>th</sup> September at 10.30am in Grosvenor House, Glengall Street**. It is proposed that the Council is represented at this event by both Members and officers.

Consultation responses must be received by the DoE no later than **2<sup>nd</sup> October, 2009**.

The key issues raised in the consultation are set out below for the attention of Members.

## **Key Issues**

On initial review of the consultation document, the main strategic issues for the committee to consider at this stage are as follows:

- There is the potential for the NI planning system to become more fragmented with the regional planning function remaining with two central governments departments (DRD and DOE) while local planning is transferred to the new councils.
- The Department is proposing a new local development plan system along with a number of other reforms which will be determined by the new council's. This will have significant resource and capacity implications for the new councils which is not addressed in the document.
- The Department proposes a high level of scrutiny of local council planning functions through a number of measures including:
  - the statement of community involvement must be agreed by central government;
  - local councils programme for the review of the local development plan must be agreed through a Programme Management Scheme by central government;
  - it is proposed that regionally significant developments will be determined by the Department and its minister; and
  - the proposed thresholds set for regionally significant applications indicates a high level of call in by the Department.
- The proposal for a tier system to determine planning applications means that planning applications will be determined by either central government or local councils which potentially could cause confusion.

A more detailed initial review of the main proposals and associated issues, which follows the format of the consultation document, is attached in Appendix 1.

## **Proposed Actions**

The reforms proposed in the consultation paper are intended to underpin the transfer of planning functions to Local Authorities and to set the framework under which the planning role will be undertaken by the eleven new councils. Members are aware that the role of the Transition committee is to ensure continuity of service delivery across the new council area from 2011 and to integrate transferred services and new functions into the new council's operations. Accordingly, it is proposed that the council's Strategic Policy and Resources (Transition) Committee is the most appropriate vehicle to determine the Council's response to this consultation.

Since the '*Reform of the Planning System in Northern Ireland*' consultation covers a wide range of areas, comments are being sought currently from all council departments to inform the response. In addition, any comments which Party Groups or individual Members may wish to make will be welcomed and will inform the preparation of the draft response which will be submitted to the September meeting of the Strategic Policy and Resources (Transition) Committee.

Responsibility for the areas addressed in the consultation paper fall principally within the remits of the Development and Town Planning Committees. It is intended that both Committees will be informed of the aforementioned proposals and invited to attend the appropriate meeting of the Transition Committee in September at which a response is to be determined.

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<b>Resource Implications</b>
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None.
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<b>Recommendations</b>
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It is recommended that the Committee agrees:

1. to approve the above arrangements for the formulation of a corporate response to the '*Reform of the Planning System in Northern Ireland*' consultation
2. that any Party Group or Member may provide initial input to the formulation of the draft response by contacting Kevin Heaney, RPA Co-ordinator, prior to 21<sup>st</sup> August;
3. to authorise the attendance of Members of the Town Planning and Development Committees at the September meeting of the Strategic Policy and Resources (Transition) Committee at which the draft response to the consultation will be considered
4. to approve the attendance of the Chairman, Deputy Chairman of the Strategic Policy and Resources Committee (or their nominees) and a representative from each of the Party Groups not represented by the aforementioned Members, together with appropriate officers at the Belfast consultation event on **Friday 11<sup>th</sup> September** at 10.30am in Grosvenor House, Glengall Street. Members are asked to note that this event will last approx. 2½hours. Places at the event must be reserved and any Member interested in attending is asked to contact Kevin Heaney, RPA Co-ordinator, to arrange this.

<b>Decision Tracking</b>
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Following approval at Council on 1 <sup>st</sup> October the Director of Improvement will submit the Council's response to the Department of the Environment.
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<b>Attachments</b>
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Appendix 1 – Summary of the main issues from the Department of the Environment's consultation paper - ' <i>Reform of the Planning System in Northern Ireland</i> '.
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Appendix 2 – Executive Summary - ' <i>Reform of the Planning System in Northern Ireland</i> '
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# APPENDIX 1

## **Summary of the main issues from the Department of the Environment's consultation paper – 'Reform of the Planning System in Northern Ireland'.**

### **Planning Policy**

The Department is proposing that Planning Policy Statements (PPS's) should move from providing operational guidance and advice to providing strategic direction and regional policy advice, which would then be interpreted locally in development plans. The aim is to produce shorter, more focused documents, in a shorter timescale.

#### Issues

- The responsibility of preparing PPS's will remain with the Department. There may be potential for conflict between local and central government where a district council wishes to depart from regional policy advice
- The proposed changes will require a complete overhaul of each of the current PPS's, this may be a lengthy process which will impact on the local councils local development plan process

### **Development Plan**

Under RPA it is proposed that responsibility for local planning will transfer to local councils. The Department proposes to introduce a new local development plan system to speed up the process. The new Local Development plans are to consist of two separate but related documents: A plan strategy and Site Specific Policies and Proposals.

Council's will be required by proposed new legislation to create a Statement of Community Involvement and also prepare Programme Management Scheme which will set out the programme for production of the key documents in the process. It is proposed that the Department will have power to secure delivery of local development plans where a district authority is not making process. A faster more effective independent examination process is proposed and will remain the responsibility of Planning Appeals Commission. Representations to the Development Plan will follow a standard template and must demonstrate why the plan is not robust and suggest a solution.

#### Issues

- the Council will need to develop the capacity to create local development plans but there is no discussion on resources needed to carry out this function
- The examination process is to change which will have implications for legal services
- If there is a time lag from the production of revised PPS, it may impact on the local development plan process
- Council's capacity to develop Statement of Community Involvement and the need for it to be agreed by central government

### **Development Management (Control)**

Development management is the new name proposed for development control and its responsibility will be shared between the Department and local councils. The main differences are summarised in Table 1. A three tier hierarchy for applications is proposed for applications: regional significant development, major development, local development. (Diagram 1) It is proposed that regionally significant developments will be determined by the Department and its minister and major developments will be determined by the new councils and will include major developments with important economic, social or environmental implications for an area of an individual district council. The definition of what constitutes a major development is outlined in Table 2

Other proposed changes include:

- The retention of regionally significant planning application with central government and the proposed threshold level for call ins
- To front load the planning application system with early engagement and pre application discussions
- Extend the permitted development rights
- Schemes of delegated decision making
- An extended list of consultee's with new statutory obligation for a timeframe for reply

#### Issues

- The council will have to decide on its own scheme of delegated decision making
- A extended list of statutory consultees may result in lengthening in the process

#### **Development Management in Conservation Areas, ATCs/AVC's**

A House of Lords Judgement (Shimizu (UK) Ltd v Westminster City Council 1997) established that, in conservations areas, the demolition of part of an unlisted building, which might previously have been considered to require conservation area consent, no longer needs such consent, i.e. partial demolition of buildings in conservation areas is not subject to conservation control. The Department aims to amend the legislation to clarify that conservation area consent/planning permission is required to partially demolish any part of an unlisted building in a conservation area/ATC/AVC

#### Issues

- This proposal has an impact on the operational side of the planning system and should provide clarity to local authorities

#### **Duration of Permissions and consents**

The Department view that the current timescales for development (usually 5 years) can lead to developers 'land-banking' which can result in development uncertainty in an area. The five year duration also has potential to lead to delays in policies taking effect on the ground as it will only apply to new development proposals

The Department proposes to

- Reduce the normal default duration of planning permission, listed building and conservation area consents from five years to three;
- For outline permission removal of the condition requiring development to start no later than five years from approval. Requirement to submit Reserved Matters within three years to be retained.

#### Issues

- As identified in the reform document this could potentially lead to an increase in 'technical starts' whereby enough development has commenced to meet the commencement date condition but then development is stopped. The installation of foundations of the development is a common way to meet the time condition at low expense.

#### **Non material changes**

It is the Department view that the current, non statutory, system of planning officers allowing non-material changes, or minor amendments, to existing approvals on a case-by-case basis may be open to a successful challenge by a third party.

The Department proposes specific legislative provisions to enable non-material changes to planning permissions to be made. These provisions could:

- Allow planning authority to change any planning permission where it is satisfied the change is not material;

- Enable planning authority to impose new conditions and remove or alter existing conditions;
- Make the power available only after application by a person with interest in the land;

This will result in the current process whereby developers can request a minor amendment to an existing proposal replaced by a system that allows changes by the authority with legislative backing.

#### Issues

- This will give local councils the power to impose new conditions and remove or alter existing conditions
- These new powers may reduce the number of new planning applications being submitted to the new local councils

#### **Correction of Errors in Decision Notices**

The Department proposes changes in legislation to allow the planning authority to correct errors in planning decision documents without the consent of the applicant/landowner. Article 20(3) of Planning Reform Order 2006 defines correctable error as an error contained in any part of the decision document which is not part of any reasons given for the decision.

#### Issues

Clarification will be required as to what consists the decision document, is it the decision certificate itself or does it include the Case Officers Report?

#### **Appeals**

The Department proposes the following:

- Reduce the time limit for lodging planning appeals to two months (including appeals into certificate of lawful use or development)
- Provide PAC with the statutory powers to decide the appeal method
- Provide in statute that appeal parties may not raise matters that were not in front of the planning authority when the decision was made.
- To extend the power to determine a parallel planning application if the same development is subject of a 'deemed application' to the PAC
- Introduce a power to allow the PAC to award costs where a party has been put to unnecessary expense and where the PAC has established that the other party has acted unreasonably
- Seek views on providing new councils the ability to determine certain minor appeals by a local member review body (LMRB)

#### Issues

- Some of the proposals may result in an increased work load for the PAC eg the new 2 month time limit. However other proposals are aimed at reducing PAC work load eg restriction on new material, and power to decide the appeal method.
- Award of costs may increase the financial burden on local councils
- Post RPA the major impact of these proposals will be the Local Member Review Body proposal whereby elected councillors on the LMRB would have the power to uphold, reverse or vary any decision which is subject to their review. This, in addition to a reduced PAC case load, would give councils increased powers which would impact on council resources as the LMRB would need professional planning guidance.

#### **Third Party Appeals**



The Department has decided to re-examine the issue in light of previous and continued interest in third party rights of appeal, however the Department is not proposing to make provision for third party appeals in this reform.

The Case for Third Party Appeals:

- Equity/natural justice;
- Enhanced third party participation in planning system
- More accessible/relevant than Judicial Review;
- Enhanced decision making;
- An incentive to good practice in relation to greater consultation by applicants;
- Swifter decisions in the knowledge of the availability of third party appeals;
- Increased public confidence

Implications of third party appeals:

- Net cost to the public purse;
- There would be a time lag on all decisions in order to allow third parties to appeal;
- Additional staff resources required by local authorities and PAC;
- Greater uncertainty as to the outcome of planning process;
- Potential adverse impact upon investment and the economy.

Issues

- Third party appeals may lead to the development management process being more accountable. However it would result in the need to increase resources and lengthen the development management process.
- Is the Statement of Community Involvement adequate?

### **Enforcement and criminalisation**

Increased Fees for Retrospective Applications

The Department is considering charging a greater or multiple of the normal fee for retrospective planning applications.

Issue

- This could be a contentious issue as some breaches of planning control are genuine.

Criminalisation of Development without Planning Permission

The Department is giving consideration to making it an immediate criminal offence to commence any development without planning permission.

Issue

- This may result in the need for Local council's to increase their legal services capacity

### **Developer Contributions**

The Department identifies two options for securing increased levels of developer contributions:

- The extended use of existing Article 40 powers; or
- Development of a CIL-type (Community Infrastructure Levy) levy on a regional or sub-regional basis

The extension of the use of Article 40 powers could provide an increased level of funding for infrastructure provision within existing legislative powers. PPS1 would likely need to be reviewed. In the case of the Community Infrastructure Levy (CIL) in England

and Wales, under CIL, local planning authorities will be empowered to introduce a statutory planning charge on development and to use the resulting money to support infrastructure provision.

#### Issues

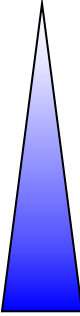
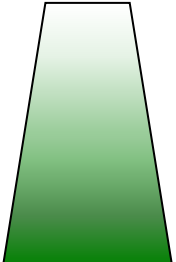
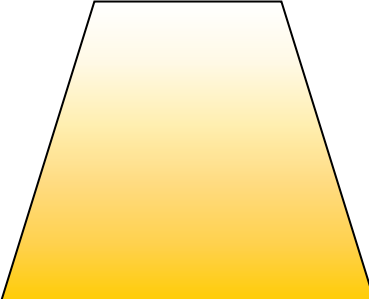
- The time required to develop and effective system;
- Determining a suitable plan or framework to determine infrastructure requirements and costings;
- The development of a mechanism to calculate and assign financial liabilities on developers;
- Flexibility to cope with different market trends or economic conditions at regional or local level;
- Legislative provision to underpin the system; and
- Agreement as to which department(s) should lead this work
- Contributions could be used to enhance or develop open space, parks and community/play facilities

**Table 1**

<b>Comparison of development control with development management</b> <b>Development Control</b>	<b>Development Management</b>
Purpose is focus on processing applications to control development and minimise harm with limited enhancement to quality of the final development	Purpose is to manage development with a focus on pre-application discussion to maximise achievement of desired outcomes for government, district councils and their communities
Asks at submission of formal application stage if the proposal is contrary to plans and policy and therefore likely to be refused	Asks at pre-application stage what are the key policy issues that need to be addressed if the proposal is to be acceptable in principle and how it can help to deliver regional policy and better quality places for district councils and their communities
Seeks views of communities after submission of application	Seeks views of communities at pre-application stage for significant developments, in addition to application stage
Other agencies are consultees in the process	Seeks to work in partnership to secure agreed development, particularly with key consultees and relevant stakeholders
Handles all applications with predominantly 'one size fits all' process	Develops proportionate processes for all applications appropriate to the scale and impact of individual developments

**Diagram 1**

The following diagram shows the new procedures and processes for applications within the hierarchy (post-RPA).

<p><b>Regionally Significant Developments</b></p> <p><b>Instrument:</b> Programme for Government; Regional Policies and Regional Plan(s); Local Development Plan  <b>Decision Maker:</b> Department with Minister to make final decision  <b>Process Route:</b> Pre-Application screening notice (statutory); pre-application community consultation (statutory); Planning application with performance agreement (non-statutory); either 1) Notice of Opinion, or 2) Public Local Inquiry (option to appoint Independent Examiners);  <b>Appeal:</b> Hearing procedures for Notice of Opinion</p>	
<p><b>Major Developments</b></p> <p><b>Instrument:</b> Local Development Plan  <b>Decision Maker:</b> District councils  <b>Process Route:</b> Pre-application community consultation (statutory); Planning application with performance agreement (non-statutory);  <b>Appeal:</b> To PAC</p>	
<p><b>Local Developments</b></p> <p><b>Instrument:</b> Local Development Plan  <b>Decision Maker:</b> District councils (including schemes of delegated decision-making)  <b>Process Route:</b> Planning application  <b>Appeal:</b> To PAC (option for Local Member Review Bodies)</p>	

**Table 2**

Major development is one that falls within the minimum and maximum thresholds of the following classes of development

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

# APPENDIX 2

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

## Executive Summary

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

## Stakeholder Engagement

4. In order to fully inform the proposals the Department has been involved in a number of different engagement activities, including a major conference in November 2007, attended by approximately 200 delegates and addressed by the Environment Minister. A questionnaire developed for the conference was posted on the Planning Service website for 10 weeks, with over 240 responses submitted and considered. Officials have also been engaged in research and have been in liaison with their counterparts in planning throughout the UK and Ireland. In addition, a series of meetings, involving Professor Lloyd, have been held with internal and external stakeholders, including other government departments, the Planning Appeals Commission, representative bodies such as Community Places, Northern Ireland Environmental Link, the Construction Employers Federation, the Institute of Directors, the Confederation of British Industry, the Northern Ireland Local Government Association and others.
5. The planning system is fundamentally about ensuring the effective and efficient use of land in the public interest, contributing to achieving sustainable development in cities, towns and rural areas. Land use and development involves a complex interaction and analysis of economic, environmental and socio-economic issues and, with the return of devolved government in Northern Ireland, the Executive has made it clear that the top priority for the next three years is sustainable economic growth.
6. Reform is therefore needed to ensure that we have a modern, efficient and effective planning system, and is critical to supporting the Executive in delivering on its key priorities. The planning system needs to provide confidence to investors, developers and the public alike. It needs to be more responsive to the many and varied challenges we are facing today, including promotion of economic growth, enabling sustainable development, securing environmental protection, addressing climate change and demands for more social and affordable housing and, of course, ensuring effective use of resources and improved service provision.

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<sup>1</sup> The Programme for Government sets out the Executive's strategic priorities and key plans for 2008-11 and can be found at <http://www.pfgbudgetni.gov.uk/> 7

## **Aims and Objectives for Reform**

7. The reform programme aims to bring about improvements in the planning system to ensure that it:
  - supports the future economic and social development needs of Northern Ireland and manages development in a sustainable way, particularly with regard to large, complex or strategic developments;
  - is delivered at the right level with the appropriate managed processes for regionally significant, major, local and minor applications;
  - has streamlined processes that are effective, efficient and improve the predictability and quality of service delivery; and
  - allows full and open consultation and actively engages communities.
8. The reforms are set in the context of the overall objective of improving the Northern Ireland economy, while promoting social inclusion, sustainable communities and personal health and well-being, as well as promoting viable and vital towns and city centres and helping to create shared spaces that are accessible to all and where people can live, work and socialise. We must also balance this with protecting the environment and heritage and contributing to sustainable development.

## **Scope of the Reforms**

9. This reform of the planning system is intended to be comprehensive: it encompasses the development plan process, development control, enforcement and planning policy, together with other support-type functions. It also covers a significant time period, from the short-term through to 2011 and beyond. It is focused on the planning system, not just the Planning Service, and on the roles and responsibilities of all of the participants, including planners, developers, agents, consultees, representative bodies, elected representatives, communities and individuals. In addition, the major structural reform of the planning system required to deliver the RPA will see decision-making on planning applications and local development planning become the responsibility of the new district councils. This will make planning much more locally accountable, giving local politicians the opportunity to shape the areas within which they are elected. It will also improve the decision-making processes by bringing an enhanced understanding of the needs and aspirations of local communities.
10. In advance of these proposals, the Planning Service has been taking forward a series of projects, pilots and trials aimed at having an immediate impact on speeding up the planning process (e.g. new pre-application discussion arrangements with applicants, and a joint pilot scheme with Derry City Council to streamline non-contentious applications<sup>2</sup> which, by the end of March 2009, had been rolled-out to all district councils). In the medium to longer term, the reform proposals that will be brought forward will require more significant changes, in many cases underpinned by new or amended legislation.
11. Chapter 1 provides background to the reform programme: the purpose of the planning system; why we need to reform it; the impact the RPA will have; and the Department's vision for a reformed planning system. The remainder of the consultation paper covers the areas set out below.

## **Planning Policy**

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

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<sup>2</sup> Non-contentious applications are defined as minor applications with no objections.

process associated with PPS production should reflect the desire to produce shorter, more focused documents, in a shorter timescale.

### **Development Plan**

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

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

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

### **Development Management**

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

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

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

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

### **Role of Consultees**

17. The Department is re-examining the arrangements by which planning authorities (whether district councils or the Department) will consult other bodies on applications for planning



permission, approval and consent and the process by which consultee bodies will be required to respond to such consultations.

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

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

### **Miscellaneous Changes to Planning Permissions**

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

### **Appeals and Third Party Appeals**

20. The Department is examining measures for improving the appeal system: for example, reducing the time limit for lodging an appeal from six months to two, giving the Planning Appeals Commission the legislative powers to determine the most appropriate appeal method, and establishing local member review bodies (comprised of councillors) to hear certain appeals. The Department is also inviting views on the issue of third party planning appeals.

### **Enforcement and Criminalisation**

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

### **Developer Contributions**

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

### **Enabling Reform**

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

### **Culture**

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

### **Capacity**

25. Another key area will be building capacity, both within the existing Planning Service and working with stakeholder bodies, councils, consultees, developers, agents and the public to

deliver reform, including the new roles and responsibilities emerging from RPA implementation. It is particularly important that all planning staff continue to develop and enhance the necessary skills and competences required to take forward planning reform.

### **Funding**

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

### ***Engaging Communities***

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

### ***Audit/Inspection***

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

### **Outcomes of Reform**

29. The anticipated outcomes from the proposed reform programme are:

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

30. These proposals lay the foundation for an improved planning system which the Department believes will encourage the investment Northern Ireland needs for economic growth, creating jobs and opportunities for all, while promoting fairness, inclusion, equality of opportunity, and protecting the best of our natural and built environment. They aim to improve confidence and trust in the system and move it from a system that is seen as reactive and bureaucratic to one that is more positive and dynamic.

31. Some of the proposals are at a more advanced stage of development than others. Some require legislative change and others require changes to policies, procedures and processes. The Department intends to work closely with all who have an interest in the planning system and welcomes your views and comments on the proposed measures. This

consultation paper provides anyone who wishes an opportunity to comment on the proposals, as well as on certain related issues where the Department is seeking views. The consultation process plays an important part in informing and framing the new planning system.

32. There are a number of consultation questions throughout the document and, for ease of response, these are summarised in a separate consultation response document. We would appreciate you taking the time to provide us with your comments. The consultation exercise runs until 2<sup>nd</sup> October 2009.

### **Assessments**

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

### ***Equality Impact Assessment***

34. A draft Equality Impact Assessment (EQIA) at a strategic level has been prepared as part of the Department's Section 75 statutory duties in response to the Programme for Government (PfG) proposals. It is intended that the draft EQIA at a strategic level will help establish a foundation for subsequent Section 75 activities that will continue to ensure that due regard for the need to promote equality of opportunity and regard for the desirability of good relations are mainstreamed within each stage of development and implementation of the reform programme up to and beyond 2011. The draft EQIA at a strategic level is being published at the same time as, and in conjunction with, this consultation paper and we would welcome your views on the draft assessment. A copy of the draft EQIA at a strategic level is available on our website at <http://www.planningni.gov.uk>.

### ***Rural Proofing***

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

### ***Regulatory Impact Assessment***

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

### ***New Targeting Social Need***

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

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

***Other Assessments***

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