



Belfast City Council

Report to:	Strategic Policy & Resources Committee
Subject:	Council Response – Call for Evidence on the Planning Reform Bill
Date:	21 st January 2011
Reporting Officer:	Gerry Millar, Director of Property & Projects
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1.0	<u>Relevant Background Information</u>
1.1	<p>As Members are aware, on the 30th November 2010 the Environment Minister outlined his proposals in respect to the reform of the Planning Service within Northern Ireland. The key proposals included:</p> <ol style="list-style-type: none"> 1. On the 1st April 2011, Planning Service functions and staff will have been absorbed into the core of DOE and the Planning Service's status as an Agency will end 2. These functions will be taken forward by two divisions i.e. <ul style="list-style-type: none"> ▪ Local Planning Operations Division which will have responsibility for the Development Plan and Development Management functions which will in time transfer to local government ▪ Strategic Planning Operations Division which will take forward the responsibilities which will remain with the Department. 3. The existing six Divisional Planning Offices and two subdivisional offices will be streamlined to five Area Planning Offices based around amalgamations of the proposed 11 council cluster model (a map of the proposed new 5 Divisional Planning Offices is attached at Appendix 1). Members will note that under these proposals, the new Belfast Area Planning Office will comprise 3 of the proposed 11 new council areas including the proposed local government districts of Belfast, Lisburn & Castlereagh, and North Down & Ards. The current Belfast Divisional Planning Office covers the areas of Belfast, Castlereagh and Newtownabbey. Newtownabbey will form part of the South Antrim Area Planning Office. 4. The introduction of a scheme of delegation (still to be published) whereby certain planning decisions would be delegated from the Minister to the Department. 5. Proposals in regards to reforming the Planning Service's fees regime. 6. Announcing the intention to progress with a small number of pilot initiatives from April 2011 to test the working arrangements for the delivery of planning functions by the new councils before they are rolled out across the new council areas.
1.2	As part of his announcement, the Environment Minister stated that a detailed Planning Bill would be introduced to the Assembly within the next few weeks for consideration.
2.0	<u>Key Issues</u>
2.1	Subsequently, on 6 th December 2010 the Planning Bill was introduced to the Assembly for consideration. In introducing the Bill, the Environment Minister stated that <i>"The proposals in this Bill will transform our planning system. They pave the way for the transfer of planning functions to local government within a timescale and in circumstances to be determined by the Executive. They will make the planning system more effective and speed up decision making"</i> .
2.2	The Planning Bill is very lengthy and consists of 248 clauses (200+ pages long) and is the

	largest Bill to come before the Assembly. A copy of the Bill and Explanatory and Financial Memorandum are available at http://www.niassembly.gov.uk/legislation/primary/2010/nia7_10.htm . A high-level summary of the areas covered by the Planning Bill is attached at Appendix 2 .
2.3	The reform proposals as set out within the Planning Bill are comprehensive, and will impact upon every aspect of the planning system, including how development plans are drawn up, how development proposals and applications are managed and the way in which these functions are delivered. The key reform changes relate to the complete overhaul and redesign of the development plan and development management systems which aim to improve efficiency and effectiveness. Significant changes are also proposed in relation to planning appeals and enforcement.
2.4	This Bill provides the legislative basis for these reforms and also gives effect to the Review of Public Administration (RPA) which will transfer the majority of functions and decision making responsibilities relating to local development planning, development management plus planning enforcement to district councils. This will make planning more locally accountable, giving local politicians the opportunity to shape the areas within which they are elected. Decision-making processes will be improved by bringing an enhanced understanding of the needs and aspirations of local communities.
2.5	The Bill therefore establishes a new framework for a reformed and transferred planning system which is likely to have a significant impact upon the future operation and service delivery by the Council.
	Consultation on Planning Bill
2.6	The Committee for the Environment has commenced Committee Stage consideration of the Planning Bill and has invited the Council to submit its views by 21 st January 2011. A copy of the proposed draft Council response to the consultation is attached at Appendix 3 for Members consideration.
2.7	The Committee will be aware that the Council had made a detailed response, in 2009, to the original Departmental consultation "Reform of the Planning System in Northern Ireland: Your chance to influence change" which set out proposals for planning reform. In cross-referencing the Council's original response with the provisions as set out within the Planning Bill, it would appear that a number of concerns expressed by the Council have not been fully addressed.
2.8	The comments, as set out within this response, therefore reinforce previous views expressed by the Council. They are intended to be constructive and seek to ensure that the reform proposals contained within the Planning Bill are maximised in the interests of enhancing the customer experience, improving social outcomes for the citizen and achieving an efficient and effective service.
	It should be noted that in responding to the Planning Bill, the Council is conscious that much of the detail around the out workings of this legislation (such as the definition of regional development and the criteria for both departmental intervention and call in procedures) may be set out within the subsequent subordinate legislation (regulations) arising from the Bill. Therefore, in its response the Council commends that the Department should ensure that local councils are consulted in the drafting of the relevant detailed subordinate regulations.
2.9	Whilst a detailed draft response on the Planning Bill is set out at Appendix 3 , for Members consideration, the following key points raised in the response should be noted:- <ul style="list-style-type: none"> i) The Council would generally welcome the Bill, seeing it as progressive and instrumental in reforming the Planning System, and would support the proposed transfer of responsibility for planning functions to district councils. ii) Consultation timing: concerned about the short timescale set for the provision of written evidence to the 248 clauses set out within the Bill (one of the largest to come before the Assembly), and the consequent ability of councils to undertake any detailed due diligence review of the proposals and the potential impact upon the future integration and administration of the functions. The timescale for the consideration of the Planning Bill has prevented the Council from fully considering the potential omissions including the issues of the award of costs

and the acquisition of land for planning purposes.

- iii) **Alignment and Integration of Legislation** - The Council is aware of the separate, but associated consultation underway on Local Government Reform which sets out proposals which will inevitably impact upon the future administration of planning functions by Councils (e.g. proposals in relation to governance, ethical standards, decision-making processes, performance frameworks etc). It would appear that the reform of the Planning Service, as set out within the Planning Bill, has been considered almost in isolation from these other matters. Due consideration will need to be given to the important interconnection and sequencing of these two strands of legislation.
- iv) **Planning Service Restructure** - The Council would seek further clarification from the Department in relation to how the new proposed new Planning Service Area Offices structure will operate and, in particular, the prioritisation of workload, allocation of resources and the resolution of potential disputes within the proposed new Belfast Area Office which covers 5 council areas.
- v) **Oversight and Intervention** - It is suggested that the level of central scrutiny/oversight and potential intervention by the Department as set out within the Planning Bill (e.g. reserve powers, monitoring, call-in, performance assessment, reporting and direction), is overly bureaucratic, process driven and may, in fact, militate against local democracy and accountability and undermines the trust and potential relationship between central and local government.
- vi) **Duplication of responsibilities** - There are a number of areas of responsibility outlined within the Planning Bill which duplicate functions between the Department and councils (e.g. listed buildings, conservation areas, drawing up planning agreements; the issuing of enforcement notices etc). The Council considers this as an unnecessary repetition of responsibility and resources and creates further uncertainty confusion within the planning process.
- vii) **Consultee obligations** - The Council would seek further clarification on the intended obligations to be placed upon designated consultees to respond in a timely and appropriate manner and the role of the Department and council in ensuring compliance with such obligations. This is particularly important in respect to the ability of councils to meet the proposed new ambitious timescales for processing planning applications and developing local area plans.
- viii) **Regional Significant Developments** - The Council would seek clarification on the process for the determination of planning applications of regional significance which are to be retained/dealt with by the Department. This is of particular relevance given the potential for disproportionate number of developments within Belfast being classed as regionally significant.
- ix) **Resource Implications** - The Council would be concerned that inadequate consideration has been given to the resource and financial implications for councils of implementing the additional requirements outlined in the new regime and would seek further engagement with the Department in this regard. This also needs to be considered within the context of the recent proposals for significant downsizing of Planning Service staff resources.
- x) **Local Development Plans** - Given the significant resource implications required in the preparation of the proposed local development plans, the Council would seek assurances within the Planning Bill that the local development plans will be the primary consideration for planning applications within a plan led system.
- xi) **Capacity Building** - The Council recognises that there is a critical need to ensure that there is sufficient capacity within both central and local government to ensure that the reformed planning service is delivered in an effective and efficient way both pre and post transfer of specific functions to councils.

The Council believes that given the delay in the Local Government reform process and the

	<p>recent proposals announced by the Environment Minister in his announcement to the Assembly on 30th November regarding potential planning pilots, there is a real opportunity to strengthen the relationship between the Planning Service and councils, enhancing the joint capacity of both and ensuring vital learning is gained in advance of the full transfer of the function as part of the RPA. This approach could facilitate the exploration of potential synergies with the existing Council functions and the additional responsibilities proposed for transfer as part of the wider RPA process.</p>
2.10	<p>Members will note that the detail around the outworkings of this legislation (such as the definition of regional significant developments and the criteria for both departmental intervention and call in procedures) will be set out within the subsequent subordinate legislation (regulations) arising from the Bill. Therefore, in its response the Council commends that the Department should ensure that local councils are consulted in the drafting of the relevant detailed subordinate regulations.</p>

3.0 Resource Implications	
There are no Human Resource or financial implications contained within this report	

4.0 Recommendations	
Members are asked to:-	
<ul style="list-style-type: none"> xii) note the contents of this report; xiii) consider the Council's response to the Planning Reform Bill attached at Appendix 3; xiv) agree the submission of the Council's response, subject to any proposed amendments made by Members, to the Environment Committee. 	

5.0 Documents Attached	
Appendix 1	Map setting out the proposed new Planning Service Area Offices
Appendix 2	High-level summary of areas covered by the Planning Bill
Appendix 3	Draft Council response to the Planning Bill