

This bulletin provides your Council with key information on the work being taken forward through NILGA, councils and partners, delivering results for local government. The bulletin is supplied for distribution at Full Council or Council Committee Meetings.

### LOCAL GOVERNMENT

## PLANNING FOR CHANGE

As Chair of the NILGA Planning Working Group, I have requested that this Planning Bulletin be produced and issued to all elected members for their information. I am keen to ensure that members are kept fully informed of the changes underway in relation to Planning, and will continue to ensure that this is the case, up to the point of transfer in April 2015.

I had the privilege of listening to a presentation by Minister Mark H Durkan at a recent meeting of the Planning Forum, of which I am a member. The Minister gave an overview of his intentions in relation to the future of Planning in Northern Ireland, and I felt that it would be useful to summarise his presentation for members, particularly the information on planning policy, procedures, legislation, customer service and recent Planning Service performance.

I trust you will find this Bulletin useful. Should you have any queries on content, please do not hesitate to contact Karen Smyth at the NILGA Office. [k.smyth@nilga.org](mailto:k.smyth@nilga.org)



Ald Jim Dillon

### TRANSFER AND THE PLANNING BILL

It is important for members to note that the transfer of planning powers to councils was not contained in this Bill. **The Planning Act (NI) 2011** contains the overarching legislation for transfer and what is needed now is a focus on the development of the subordinate legislation needed to implement the Act.

The Minister recently decided not to proceed with the Planning Bill.

In advance of transfer, the Department is working actively to improve the planning system and to create a system which is less complex, more effective, more efficient and more customer-focussed without compromising on environmental standards.

### THE VISION FOR PLANNING

- To create a better environment and a stronger economy; to create a planning system that works to achieve this; a system that is fast, fair and fit for purpose; one that delivers for business - with timely decisions that bring investment and jobs but not at the expense of our environment, planet or people.
- A system which realises that the environment and the economy should not, and cannot be, at loggerheads.
- A system that fully recognises that a vibrant, sustainable environment can be a driver of prosperity and job creation. Similarly a strong economy and a prosperous society can be good for the environment.

## FIVE KEY ACTIONS

To ensure that planning is transferred as seamlessly as possible and to ensure that the new system is in the best possible shape for transfer, **five key actions** have been identified, to bring the new system to life over coming months. The Minister has asked the Department to:

### 1. Shorten and simplify policy. Move to a single Strategic Planning Policy Statement (SPPS) rather than 20 separate policy publications.

The SPPS is an essential, key element of the broader planning and local government reform programme that will assist in the transition to the two tier planning system in 2015. It is strategic in nature and provides the context for detailed operational policies to be brought forward by new councils within future local development plans. It will be a relatively short and concise statement of planning policy, consolidating and improving the strategic elements of extant policy.

It will also set out the core planning principles to underpin delivery of the reformed two-tier planning system from April 2015 including promoting sustainable development, well-being and shared space. In addition, the SPPS will bring forward new strategic policy relating to town centres and retail. NILGA has had an opportunity to participate in a limited pre-consultation on the key policy objectives.

**The draft SPPS was issued for consultation on the 4th February 2014, NILGA will be responding to the public consultation.**

### 2. Initiate key reforms to the planning system.

While the Planning Bill, as originally intended, would have provided a legislative basis for *the Department* to take forward many reforms, there are measures that can be commenced without legislation, such as new local development plan preparatory work, setting in place the new hierarchy of development arrangements, extending pre-application discussions and encouraging more widespread pre application community consultation. Better informed applications will be processed more quickly.

It will be preferable to move quickly towards mirroring the new structures that will be in place from 2015 and implementing the reforms. This should, individually and collectively, provide a real opportunity to speed up decision making. It will also provide greater certainty for applicants, and enhanced community involvement.

#### ***Preparatory work on local development plans***

Planning decisions should be taken against a framework of up to date and effective development plans and supplementary guidance. Again that provides greater certainty to investors, applicants and communities. Area Plan teams are now being established to commence preparatory work on area plans for all the new council areas. This work will involve close working with statutory transition committees and in due course new shadow councils. This will allow the new councils to move quickly to bring forward their own development plans once they become the planning authorities next year.

#### ***Hierarchy of Development***

A new development management approach, is being put in place (as set out in the 2011 Planning Act) incorporating a 3-tier hierarchy of development (local, major and regionally significant) so that greater resources can be directed at those applications with economic and social significance, through more proportionate decision making mechanisms tailored to the scale and complexity of the proposed development.

**All major and local developments will be dealt with by councils under the new planning system. Major developments will be subject to pre-application consultation with the community.**

Regionally significant development proposals or proposals which are a substantial departure from a Local Development Plan will also be subject to pre-application community consultation and will be determined by the Department.

**The legislative thresholds for the 3 categories will be subject to a forthcoming consultation, but it is anticipated that the hierarchy arrangements will be put in place as soon as possible, well in advance of the transfer of planning functions to councils.**

Specialised multi-disciplinary/multi-agency teams are being set up and deployed across the new clusters to actively manage major applications drawing on consultee expertise and with appropriately trained planners with knowledge of property, finance and commercial issues. This will cascade the model used for regionally significant applications, including pre application discussions and pre application community consultation to a more local level. The Department is also trying to creatively deal with specific pressures on the development management system, and is appointing consultants to assist in assessment of Article 31 **retail** applications that are particularly labour intensive.

#### ***Pre-application discussion***

Frontloading of the planning system will continue, by encouraging developers to engage in pre application discussions both with the Department and communities affected by the proposal. New arrangements for pre application discussion (PADs) are being introduced. The best way to ensure a quick planning decision is to discuss proposals with the Department at the earliest opportunity before making an application.

For smaller scale applications, applicants will be encouraged to call in to their local office for an informal discussion. On large, economically significant projects the Department will facilitate a more formal round table discussion involving all the relevant agencies depending on the nature of the scheme. This will help applicants to submit applications with all the necessary information addressing all the planning issues. New PADs guidance will be launched shortly.

#### ***Pre application community consultation***

Applicants for major developments will be encouraged to engage in meaningful consultation with the community affected by the development before submitting their application so that views of the local people can influence the scheme.

### **3. Tackle response times from consultees - particularly those from NIEA.**

NILGA has repeatedly raised with the Department, the time taken to conclude consultations as a key cause of delay in the development management process. We are therefore pleased to see that measures are to be put in place to improve the performance of consultees, so that sound decisions are made more quickly, delivering decisions to support economic recovery and sustainable development.

In the future as part of the implementation of the 2011 Planning Act, greater clarity and certainty for the consultation process will be provided. For the first time, identified consultees will be statutorily required to provide a substantive response to a consultation request from a planning authority within a specified timeframe and to report on their performance in meeting their duty to respond. All future consultation responses will have to be “substantive” providing sufficient information to allow the application to be determined. **A holding response will not be regarded as meeting the requirements of the duty to respond.**

This new element of the system will be a valuable opportunity to identify any difficulties or bottle-necks in the system but also to identify good practice.

**The Minister has given a particular assurance in relation to NIEA performance, in that all NIEA consultee input will meet the new statutory timelines when they come into effect.**

In the interim, NIEA will conduct a series of **'Backlog Blitzes'** to clear outstanding planning consultations, with the first two being;

- All **'brownfield site'** consultations greater than 12 months will be cleared by the end of March 2014 and the remainder of the backlog will be cleared by the end of June 2014;
- 95% of all **'natural heritage'** outstanding consultations (currently 230 applications) will be cleared by the end of March 2014.

**On the 1<sup>st</sup> of February, NIEA established a Planning Control Team which will:**

- assign a single contact officer for all NIEA planning consultations, making it easier for applicants to get co-ordinated negotiation and advice from NIEA;
- develop new protocols for how the different sections of NIEA will streamline and improve their planning consultation processes.

**NIEA will also start a series of projects with industry sectors to agree ways for NIEA and businesses to work together during the pre-applications phase, starting with:**

- A Contaminated Land conference on 25 March 2014 for property development, construction sectors, councils, NIEA and others. Invites will issue soon.
- Similar workshops will be conducted with the agri-food and renewable sectors from April.

#### **4. Improve customer service and access to case officers.**

The Minister is keen to ensure that the Department improves in listening to customer needs and responding to their requirements, and in particular he intends to improve direct telephone access to planners.

#### **5. Ensure all those with responsibility for delivering the new system have the capacity to do so.**



#### ***Capacity Building and Training***

As well as improving the existing planning system in preparation for the transfer, the department is also helping councils get ready to receive their new powers. It is vital that the new councils, and councillors, have the skills, knowledge and capability to deliver the new planning system and a mandatory code of conduct to follow. It is essential that everyone involved in the new system is properly prepared and aware of their role and responsibilities. Future decision makers must, for example, understand the delicate balancing act between environmental and economic considerations in development planning and development management, and

the need for prompt, sound decisions.

Last year Executive funding of £3m was secured for capacity building and training. This money will ensure that essential training for councillors who are involved in making planning decisions can be carried out in good time and will mean that they are well equipped for, and have the confidence as well as competence to make, sound planning decisions right from day one.

The requirement for councillors to understand the planning process and the new role they will play in it will form a very important part of the capacity building programme prior to April 2015. The programme will ensure that councillors will be better equipped and better placed to deal with planning issues; from deciding planning applications through to the ethical standards they will be required to adhere to and the code of Conduct they will be expected to follow.

Working in partnership with a range of stakeholders, the action plan to deliver the overall capacity building and training programme will be rolled out during 2014 and right up to the point of transfer. Planning-specific training and relationship building at a local level between councils and area planning offices has already begun.

### ***Checks and Balances, Audit and Performance Management***

The 2011 Planning Act allows the Department to conduct an assessment of a council's performance and how a council deals with applications for planning permission. The Act also contains a range of oversight and intervention powers. NILGA will be working with councils and the Department to ensure that an appropriate relationship is developed, to ensure regional policies and objectives are implemented and to further consistency of service delivery across Northern Ireland.

It is important to ensure that planning functions are carried out, and are seen to be carried out; in a fair and consistent manner and that best practice is applied across the new district councils. NILGA will be working with the Department to ensure that a proportionate approach is taken in relation to audit, inspections, performance management, target setting and monitoring of the planning system.

### ***Code of Conduct***

When exercising their new decision making powers in respect of planning, councillors will be required to observe a mandatory Code of Conduct, which the Department is currently drafting and will issue for public consultation in the next few weeks. NILGA has had an opportunity to participate in a limited pre-consultation on the draft, prior to wider issue.

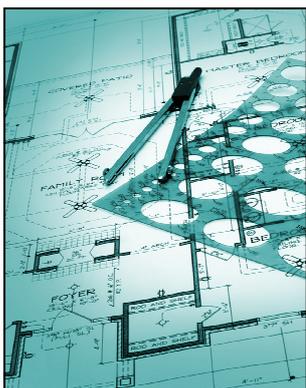
- This Code will include specific references to how councillors should conduct themselves when dealing with planning matters. The Code will be accompanied by detailed supplementary guidance to advise councillors on what they can and cannot do with regards to planning.
- The guidance will deal with matters such as: lobbying of and by councillors; recommendations made by planning officers; councillors' personal and prejudicial interests; decisions contrary to an officer's recommendation; decisions contrary to the development plan.
- Allegations of breaches of the code may be investigated by the Commissioner for Complaints and, if the Commissioner finds that a breach has occurred, sanctions may be taken against the councillor. The Code and guidance will offer protection to councillors executing planning duties and assurances to the public about councillor conduct.
- NILGA is currently working to ensure that a satisfactory appeals procedure is put in place in relation to the Code.

### ***Communication***

NILGA is working with the Department to ensure that there is enhanced public understanding of the changes to planning services. A Communications Strategy has been produced and is guiding the timely publication and dissemination of information through a range of media, including bulletins, articles and events.

### ***Resources***

The transfer of planning will only be successful with the right resources in place. Work is ongoing to ensure the smooth transition of staff from central to local government, and workforce models have been developed to inform the staffing levels required in each of the new councils.



### ***Better applications***

Responsibility for improvement does not only rest with the planning authority and consultees. DOE is not the only player on the pitch. It has to be a collaborative approach. A key ingredient in improving the consultation process is to ensure that each application is submitted with the information needed to reach a quick decision and where there are gaps, and the planning authority requests further information, it is essential that this is provided in a timely manner. Applicants and developers need to play their role in ensuring quality, soundly based applications are submitted. And, in return, they can expect quicker decisions. Better performance based on better, comprehensive and complete applications is the way forward.

## BENEFITS

**DOE intends to be much more robust in rejecting inadequate planning applications from now on. Poor applications, with incomplete or low quality information, clog up the system, diverting time and energy from dealing with good quality planning applications. This issue is to be tackled robustly, prior to transfer to councils.**

These actions should benefit all users of the planning system. Communities who want to input in a genuine and meaningful way to development plans for their areas, and who want to be consulted before applications are submitted to developers will benefit.

Also developers will have more certainty in terms of speedier decisions and outcomes. The environment will benefit from better informed decisions. The Department will benefit in the short term **but councils too will reap benefits in the longer term through improved efficiencies and performance.** The Minister is keen to challenge all those involved in the planning process, including councils, to help deliver the vision for the new planning system.

**What would these improvements mean for the processing of a future planning application which has the potential to bring economic and social benefits to an area, say a major housing scheme?**

An up to date policy framework will provide clarity and certainty to all users of the planning system. Up to date local development plans, prepared with meaningful input from communities will set out council and community visions for their areas and again provide certainty on future decisions. Therefore from the outset landowners and applicants will have greater confidence on whether their housing scheme will be acceptable. Pre-application discussions will allow the developer to be better informed on requirements for their application; Pre-application community consultation will also allow communities to provide meaningful input before the application is submitted. This will allow issues / concerns to be identified and addressed early on. These measures should allow the submission of a better informed and better supported application. Improved consultee response times will lead to quicker decisions and applicants. Objectors will benefit from improved customer service through better contact with the case officer.

### Recent performance

There has been an identifiable improvement evident in all categories of applications. Over the most recent quarter, the average processing times for *Major*, *Intermediate* and *Minor* categories of planning applications have been reduced by four, two and one week respectively compared to the equivalent quarter in 2012/13. Planning Service is now exceeding the 6 month target for Large Scale Investment decisions.

Article 31 applications have been reduced by more than 50% in last 18 months. The Minister has stated that he is committed to clearing more Article 31 cases and to continue to exceed the 6 month target for large scale investment decisions, but accepts that there are those who believe that he and his Department are not doing enough to improve the planning system.

**It is also accepted that more needs to be done, recognising that planning system can, and should, do much more to unlock development potential, support job creation and aid economic recovery.**

### Certainty

The Minister, and the Department, are keen to deliver greater certainty in terms of the timescales for processing applications to decision; certainty of the policy context so stakeholders will know what is likely to be acceptable or unacceptable; certainty that the views of local communities will be sought and considered in a meaningful way and certainty that the planning system that we transfer to councils in 2015 will be fair and fit for purpose. NILGA will continue to work closely with the Department to assist in delivering this certainty.

### ***NILGA - Your Local Government Association***

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