



Northern Ireland  
Assembly

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**COMMITTEE FOR THE  
ENVIRONMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Planning Bill**

27 January 2011

**NORTHERN IRELAND ASSEMBLY**

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ENVIRONMENT**

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**Members present for all or part of the proceedings:**

Mr Cathal Boylan (Chairperson)  
Mr Patsy McGlone (Deputy Chairperson)  
Mr Trevor Clarke  
Mr Danny Kinahan  
Mr Alastair Ross  
Mr Peter Weir  
Mr Brian Wilson

**Witnesses:**

Professor Sue Christie	)	Planning Task Force
Ms Claire Ferry	)	
Mr Aodhan O'Donnell	)	Consumer Council
Mr Colm Bradley	)	Community Places
Ms Clare McGrath	)	
Mr Arthur Acheson	)	Ministerial Advisory Group

Professor Greg Lloyd

**The Chairperson (Mr Boylan):**

We will move straight to oral evidence on the Planning Bill. The first two participants are not

here. I welcome Sue Christie and Claire Ferry from the Planning Task Force. We have five briefings today, so, although I will give you a certain amount of latitude, we have to try to stick to time. We have a big afternoon ahead of us.

**Professor Sue Christie (Planning Task Force):**

Thank you very much for giving us the opportunity to speak to you this morning. The Planning Task Force is a loose grouping of environmental and community organisations working together on all aspects of planning. For the past couple of years, we have been concentrating on various aspects of planning reform. The comments that we will be discussing have been agreed by all members of the group, although other specific comments will be raised by specific members. Obviously, that will be gone into in greater detail this afternoon, as it has been in written submissions.

The Planning Bill is an extremely important piece of legislation, and we need to get the framework right to improve the situation for many years to come. We need to think in the long term to give the Bill the best chance of setting the solid foundations that Northern Ireland needs. The Bill needs to go beyond words. It needs to be operational and practical, so that the Committee's intent is actually carried out by the planners, understood and agreed by local authorities, and supported by all people in Northern Ireland. Time is of the essence. It is a huge Bill, and there is very little time. However, we need to get the fundamentals right. If necessary, details can be amended, but they need to be set out in the Bill at this stage.

There are some aspects of the Bill that need modification in order to achieve those goals. Planning needs to have a very clear and specific purpose detailed in the Bill. We suggest that the Bill should state that the goal of planning is to secure proper planning, community well-being and sustainable development. We need to fully embed and clarify what sustainable development is and how it is to be delivered. The Bill should require the Department to exercise its functions with the objective of "securing" sustainable development; "contributing to" is not adequate.

We need to include a duty to consider climate change and energy implications for all development, especially with regard to energy security and energy prices in Northern Ireland. There needs to be an established and clear statutory link between local development plans and

community planning. One way to secure that, and to ensure that development is truly sustainable, would be a community infrastructure levy which provides a clear mechanism to support and compensate local communities.

We feel that the introduction of limited third party right of appeal is necessary to ensure fairness and parity for developers and communities. Pre-development consultations are welcome, but they will need guidelines, monitoring and an appeals process. In order to be effective and be seen to be effective, and for communities to feel that they have a true voice in the planning process, we feel that third party right of appeal is necessary.

Finally, there are some aspects of supplementary information that will be required. PPS 1 is urgently needed to clarify and explain the purpose of planning and securing sustainable development. Councils will require guidance on the details of standards and procedures, especially around community planning, development control and local plans. Those are new areas for communities and councils, and they will need some advice to ensure that there is a level playing field throughout Northern Ireland to allow individual councils to do better and to ensure that all meet the baseline.

Subordinate legislation will be required, and should be progressed, to ensure the delivery of the Planning Bill to its maximum potential. We would be delighted to answer any questions.

**The Chairperson:**

Claire, would you like to add a few words, or are you happy enough?

**Ms Claire Ferry (Planning Task Force):**

I am happy with Sue's summary and am here to help answer the questions.

**The Chairperson:**

Thank you very much.

We have received a number of responses, and some of the cases have been highlighted. You mentioned the third party right of appeal. In all the debates that we have had on the Bill, both

here and in the Chamber, people have talked about front-loading the system. However, we may be looking at back-loading the system if we leave in an appeal mechanism. There may be some merit in some kind of appeal mechanism. Is there any model out there that we could introduce into the Bill that you think would work?

**Ms Ferry:**

As you know, many of our organisations have called for third party right of appeal at the various stages of the consultation on planning reform. A good deal of evidence has been compiled by many of the non-governmental organisations, including a specific project in England in 2002 which looked at third party rights of appeal in many different countries, from Ireland to Australia, and a number of models. Other research has been done in Northern Ireland, looking at comparable systems, for example in Ireland. There is the scope, and a supporting case, for a limited third party right of appeal.

I want to stress that we are not suggesting an absolute free-for-all. We are looking for a limited third party right of appeal under certain circumstances, such as when a planning application is contrary to an adopted development plan — where the development plan process has been gone through and a planning application has been permitted against what has been said in the development plan — or when the local authority has an interest.

The right to appeal could be limited to those people who objected to the original application or to cases where a planning officer has recommended refusal but that decision has been overturned by the local authority. Those are the types of limitations that could be considered for third party right of appeal.

Everybody is so confident about the front-loading of the system, with pre-application discussions and pre-application consultation with communities. We absolutely support that, and if that is going to be so good, the third party appeal mechanism will not be used often. However, it is fair and allows equal access to justice for everybody. It is possible to stop vexatious and extraneous appeals by putting in the principle that the Planning Appeals Commission can award costs if it feels that the appeal is not fair.

**The Chairperson:**

You have posed questions for the Department, and we will ask them on your behalf. The link between community plans, local development plans and well-being is important. Representatives from Queen's University were here, and they gave a good presentation on spatial planning. Will you comment on that, please?

**Ms Ferry:**

Community planning and community well-being will come into play with local government reform. That consultation is out at the moment. We think that it is important to have a statutory link between what communities are saying about what they want in their community plans and the local development plan, which is the spatial planning framework of how any development will be delivered. Having looked elsewhere in the UK, the RSPB has found that there is a risk of community death by consultation or consultation overload. Aspirations are raised through the community planning process; it looks as though everything is going to be wonderful and that everyone is going to get what they want from their community plan. However, if there is no mechanism for translating that into actual development and the structure of spatial planning, what will happen? They will have their hopes dashed, unless that connection is made clear.

**Professor Christie:**

It is important that community well-being is tied in with the community plans. It is vital that we re-engage the community in identifying and delivering crucial services, particularly in times of financial strictures. If the hopes of the community are dashed and something as crucial as the physical plan is not followed through, we will lose the resource of community involvement and commitment, which should be the bedrock of future planning.

**The Chairperson:**

A lot of people have talked about the time frames and proper scrutiny of the Bill. There has been a good body of work in the Bill, and you support its broad principles. The devil is in the detail, as you know. We have talked about subordinate legislation, which will be the key element to a lot of things, how it rolls out and PPS 1. Do you still think that the time frame is too short?

**Ms Ferry:**

The time frame is quite short. Nevertheless, we appreciate the work that has gone into the Bill. Although it is a chunky Bill, it is evident that a lot of it is transferring existing legislation into the new context. The new things, such as the items that we have mentioned already, include the purpose for planning, the duty for sustainable development and the potential for a third party right of appeal. A lot of the things that we raised as groups in the pre-Bill consultation are not dealt with by the Bill and will be dealt with by subordinate legislation. We recognise that, and we are not going to try to force them into this bit of legislation.

However, we are concerned about the reality of getting the subordinate legislation and additional policy and guidance written up and available in a timely fashion, particularly bearing in mind the Department's resource constraints. In our response, we said that we would appreciate the Committee's asking the Department how feasible that is and when it will be done. Importantly, when it is being done, will there be adequate time for consultation with the likes of us and the public?

**Mr Kinahan:**

Thanks very much for a good, crisp, short, sharp and pertinent presentation. I have one point, which is more of a statement, and two questions. Yesterday, at a meeting of the Committee for the Office of the First Minister and deputy First Minister, we received an interim report on the sustainable development strategy. My disappointment was that all the replies from all the Departments will not be finalised until 24 March, which misses everything that we are doing. We have to make sure that this is one of the other things that works through alongside this Bill and that it is on the table the moment the Assembly comes back, with whoever is Minister. We must make sure that the Department has replied on the sustainable development strategy. I cannot remember where we are with that to make sure that our bit is done. The witnesses would not say yesterday which Departments have not replied. They were specific about not saying that.

My other two points are questions. I take on board the community infrastructure levy, but one group who presented yesterday were very keen that it should not always be a general levy, but should sometimes cover pertinent things that are needed in a locality. I am sure that you would support that, and I believe that you have answered that question.

The third thing is third party rights of appeal. We know that the Minister is quite against bringing that in, but has said that he will review it. Have you any thoughts on how to front-load the system so that it is doing the absolute best that it can, given that we may not get third party rights?

**Ms Ferry:**

I will make quick mention of the community infrastructure levy. Clause 75 allows for planning agreements. We already have a process for allowing planning agreements under article 40 of the Planning (Northern Ireland) Order 1991. Those have not been used very much. They are very legalistic and are often avoided, to a large degree. That is very different to the situation elsewhere in the UK, for example in England, where agreements under section 106 of the Town and Country Planning Act 1990 are used a lot. The community infrastructure levy could be additional to that to make sure that local infrastructure is provided.

Depending on how it is done, it could be almost less of a burden on developers if the levy from different schemes was amalgamated to provide one decent piece of infrastructure that is identified as being needed. That type of identification will come through things like community planning and the regional development strategy, bearing in mind that some infrastructure that is needed will be beyond the scale of one development in an area. There may be many developments in one area, and it would make sense to combine those, whereas it would be difficult to get that co-ordination and collaboration in a planning agreement because they are for one application, rather than many in one area.

If third party appeal rights do not happen now — and we would rather they did; indeed, Minister Poots in his previous role is recorded in Hansard as saying that he supported third party rights of appeal — we want to make sure that enough is done that there are consequences if pre-application consultation is not done properly. Among the things that we have listed are a statutory requirement for such consultation and making sure that the requirements for notification are followed properly. The Localism Bill, which was recently introduced in England, specifies in more detail who should be notified of any upcoming applications to make sure that the right people hear about it. We also list a minimum duration for period of consultation, good practice



advice on how it is done, and the need for someone to check so that, if it is not done properly, there is some kind of comeback.

**Mr Kinahan:**

Can we see a summary of the Localism Bill? It arises quite often, and a summary would be good.

**The Chairperson:**

Yes.

**Mr McGlone:**

A number of things are sort of linked about the place. I hear and entirely support what you are saying on the sustainability argument, but, as Danny has just pointed out, hot from the press yesterday, that is entirely contingent on how another Department is moving — or not moving. We saw the inadequacies of the DOE exposed in its first presentation on the Climate Change Bill.

If a lot of the work on sustainability is contingent on other Departments, and if those Departments are not delivering up to the spec, it is a matter for the Committee to establish first, what time frames for sustainability other Departments have and secondly, whether that is in any legislation, practice or policies that they are developing. The Committee will probably need to establish those points itself, because that feeds in to this matter.

Likewise, you made a valid point about the time frames for SL1s and other supplementary policy guidance or, indeed, policy statements that might follow on the back of the Bill. Indeed, a number of us raised that point previously. If all that documentation is not falling into place, the Bill really is not worth one whit.

I will play devil's advocate on a couple of issues that you mentioned. Will you expand on how a community infrastructure levy would work and how it would be levied on people? We are moving into a situation where many of us see new planning fees. We all know that the game plan at work, which is that, with the transition of powers to local authorities, some sort of presentation can be made so that, on paper, the new fees that they think they will implement will look cost neutral. If even some of the projected planning fees go through as they are at present, there could be quite substantial increases in fees, whether they come from the developer or from somewhere

else along the line. Could that levy be seen as a further imposition of another type of fee or taxation on people who may be finding it difficult enough to get things moving in the current economic climate? I refer to individuals, businesses and, indeed, those who are involved in development.

Finally, I will definitely play devil's advocate on the issue of third-party rights of appeal. How do you answer the charge that people who are interested only in delaying the planning process would or could use third-party rights of appeal to do so? I would have to be honest with myself and say that that issue has also cropped up.

**Ms Ferry:**

First, I will discuss possibility of fees and the levy being seen as an additional imposition. It is important to keep the two separate. The fees are for a specific purpose, and, if both are additional to costs, they need to be justified. If councils are looking at increasing fees, they need to be able to justify what that increase is being spent on, why the fees are going up and whether they can show what the fees will be used for. Exactly the same goes for the infrastructure levy. We do not think that it should be introduced just because we feel like getting more money. It needs to be used for infrastructure requirements arising from the development, and not only because we fancy having a new sports centre in the local area. The levy needs to be connected to the development so that it is justifiable and that how it is spent can be shown.

As I mentioned, the need for infrastructure may arise as a result of several developments in one area. Separate agreements with all the different developers would not be entered into. However, if they were each to put in a small amount of money, the required local infrastructure would be achieved, rather than each developer being asked to get involved in some kind of piecemeal approach, which could end up being more expensive for them. I think, therefore, that it would be more beneficial to have the levy in place.

**Professor Christie:**

The levies will be proportionate to the size of the development, so a very small development would not be asked for hundreds of thousands of pounds. Overtly, the amount of money levied might be quite large, but it would be only a fraction of the costs of development, as opposed to a

flat fee.

**Mr McGlone:**

Obviously, you have taken that idea from somewhere. Does it operate somewhere else, and, if so, how does it work? For clarity, when talking about the proposal on fees, I am referring to a document of the Department's that is out for consultation. Does that levy idea operate somewhere else?

**Professor Christie:**

Yes, it operates in England.

**Mr McGlone:**

Perhaps it is wrong to ask this, but can you give me an inkling of what sort of costs and so on are involved in the levy? Perhaps we can find that out.

The policies issue must also be considered. That is the humbug in the middle of these plans.

**Ms Ferry:**

I agree. There are delays at the moment, because people are appealing and objecting. However, as we said, if the front-loading is done properly, many people's concerns will be sorted out if they are limited to only circumstances where there is a real justification for them. That could be, for example, if the local authority has a vested interest in the application, if it is contrary to a pre-agreed development plan that was considered sound under the new system, or if the person concerned objected consistently throughout and the application was not vexatious. We should not forget that if the Planning Appeals Commission could award costs against somebody for a vexatious application, people would be discouraged from appealing because they wanted to delay a decision, as they would be charged for that. I am sure that that will be a big disincentive.

**Mr McGlone:**

What I meant was the policies issue about other policy development issues, be it on sustainability or on other matters even in the DOE itself.

**Professor Christie:**

That is a huge problem. I would say that this gives the Assembly the opportunity to overcome some of the big problems that we in Northern Ireland have had for years with the non-integration of policies across Departments. The Assembly, through the Executive, can take a role in that and encourage different Departments to work together. Perhaps it could do more than just encourage the Departments. One of the big problems in Northern Ireland is getting the integration that allows us to move forward on a whole range of issues that need the co-operation and participation of a number of Departments. That is a big problem, but we need to address it.

**Ms Ferry:**

If there is to be a delay in the overarching sustainability development strategy for all Departments, this is the opportunity at least to get it right in the planning system. We are referring specifically to the general functions of the Department as listed in the Bill. It states that the Department must secure:

“the orderly and consistent development of land and the planning of that development.”

That statement is really just a means to an end. Securing the development of land and the planning of that development is a means to the end of achieving securing proper planning, community well-being and sustainable development. If that is made clearer in the Bill, we would at least know that the planning system is doing that, even if there are delays in getting sustainable development policies across.

**Professor Christie:**

If those provisions are already up to standard, that would also overcome the problem of having to go back and change them when we get progress here. It would set the standard and show where we want to go from here, and everybody else has would then have to move forward.

**Mr McGlone:**

Thank you for that.

**Mr B Wilson:**

Thank you very much for your presentation. It was concise, and it highlighted the main points, as well as my main concerns. I welcome the emphasis on sustainable development and third-party appeals. Those matters are particularly important. You said that:

“The Committee should **consider the need for a Climate Change Duty.**”

Will you expand on how that could be implemented?

**Ms Ferry:**

Again, that is taken from an example in English legislation. Section 182 of the Planning Act 2008 requires development plan documents to:

“include policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change.”

Therefore, there are examples in other legislation of how a climate change duty can be introduced. Although I have not read it in detail yet, climate change is a key issue in the draft regional development strategy. If the regional development strategy is providing the overarching framework under which the local development plans will come through, climate change is one of the big things that we face. The planning system and other systems have to have a way to deal with that, and it should be reflected in the Bill.

**Mr B Wilson:**

What legislation is that in England?

**Ms Ferry:**

The Planning Act 2008.

**Mr B Wilson:**

Thank you.

**The Chairperson:**

Claire and Sue, thank you very much for your presentation. No doubt you will be back before us and will be keeping in tune with what the Committee will do over the next couple of weeks.

We will now receive an oral briefing from the Consumer Council.

**Mr Aodhan O'Donnell (Consumer Council):**

I thank the Chairperson and Committee for hearing the Consumer Council's oral briefing. The Consumer Council provided submissions to the consultation in September 2009 and also in response to the Committee's call for evidence.

The matters covered in the Bill probably go beyond the Consumer Council's statutory function on matters such as transport, energy and water. However, under the General Consumer Council (Northern Ireland) Order 1984, we have a general representation role to look after consumers' and citizens' interests. That is why over the past number of years we have provided submissions and comment on the Planning Bill as it has proceeded.

The Consumer Council wants to make two key overarching points. First, we welcome the Bill's retention of the condition to accommodate the long-term view of the regional development strategy, which is out for consultation. It is a key condition that the Planning Bill operate in conjunction with the regional development strategy and that due regard will be given to any guidance that comes from the Department for Regional Development (DRD) and the Office of the First Minister and deputy First Minister (OFMDFM).

Secondly, in our written response to the Committee, we raised the issue of how the Bill gives local councils a stronger role in planning and development and how that role fits in with the delayed process of the review of public administration (RPA). We felt that there was a lot of crossover between, for example, the local development plans and the development of community planning. We recognise that the integration of councils would have helped to move the process forward. Therefore, the delay in the RPA process will have an impact. Those are the two overarching points that we wanted to make.

We will not go into the details and specifics of planning, but you will probably be aware that we will want to comment on the areas of the Bill that focus on community consultation and involvement. We find that that is key to ensuring that citizens are well informed. Clauses 2, 4 and 27 prescribe community involvement and consultation by the Department, councils and applicants. From the Consumer Council's point of view, it is important that there is more guidance and information about how that community involvement and consultation will take place.

The Bill goes into a bit more detail on the applicant process, but we are keen that the Department and councils in particular undertake a very open and transparent process of consultation and involvement. That will help to build confidence in the planning process and ensure access to information. It will also ensure that community involvement and consultation is not just one way; information in reports and findings should be fed back to citizens and consumers so that they can see whether their voices and concerns have been accommodated and reacted to. We would like to see further information that consumers can take away, perhaps not in the Bill, but in subsequent guidance or subordinate legislation.

Part 9 of the Bill, which deals with access to the redress and appeals system, will also impact on consumers directly. That is another important aspect of instilling and building consumer confidence in the process. Any redress system should be accessible and user-friendly, and information should be clear so that people know the system and how it works.

As I said, we will not get into the specifics and technicalities of planning, but the final point that we want to raise concerns councils' performance. There is quite a bit of detail about how that will be assessed, and it is important that performance is reported on as well. Given the new roles, functions and powers, there will be an opportunity to learn from councils' experiences and to learn how well some of them are undertaking the tasks. That will be a support mechanism for the staff and councillors who are involved in the process of assessing and reporting on planning applications. That is an opportunity to develop capacity in councils and among staff

Councils' performance will, no doubt, be very important to people in the community and the media where significant planning developments and applications are concerned. It is important

that a reporting system is developed and that there is consistency of performance across councils and in the reporting and assessment of that performance. That is one of the key areas that the Consumer Council wants to be developed further once the Bill is enacted.

The Consumer Council wanted to highlight, as it did in previous submissions, its desire to see community involvement and consultation go right through from the Department to the councils and applicants. It is important that there is openness and transparency in that process. The Consumer Council is happy to share some of the principles that it has and advocates for consumer involvement and choice. Those include information, access to information and redress systems. Those are principles well established in particular processes, and we would like to see them incorporated into any future development.

**The Chairperson:**

Thank you very much for your presentation. You mentioned the Consumer Council's role, but a lot of questions have been asked about exactly what is meant by the use of the word "community" in the Bill. I suppose it means that everybody should be included. Will you expand on that?

**Mr O'Donnell:**

Community engagement and involvement is key. The Consumer Council has set out a number of principles that any good public service, or indeed any service provider, should provide to consumers. Those principles concern how they engage, communicate and provide redress if something goes wrong. It is down to ensuring that there is information and that it is provided to people in a form that they can access and understand. It is about giving plain information while reacting to consumers' needs. We undertake quite a bit of community consultation through consumer panels that help to build a service along with the consumer, rather than delivering on to the consumer.

**The Chairperson:**

To follow on from that point, we heard earlier about front-loading the system and giving everyone a chance. How do you ensure that the community is making a meaningful contribution in the absence of, for example, third-party rights of appeal? Until now, people have been allowed to submit evidence and views, and those are taken into material consideration in any application.



However, the question is whether sufficient weight is given to them.

**Mr O'Donnell:**

From the work that the Consumer Council has undertaken, and this is not just focused on this issue but is right across the board, there is a need to understand and appreciate the capacity in the communities to take on board information and respond to it. As councils are locally based, they are well placed to assess the infrastructure and capacity of local communities. However, the point is to work with those organisations that help and support communities at a more local level.

**The Chairperson:**

Thank you very much. Do any members have any questions?

**Mr B Wilson:**

You said that the process should include a limited third-party right of appeal. Could you develop that point?

**Mr O'Donnell:**

This comes back to the point of redress and ensuring that enough safeguards and mechanisms are in place to allow appropriate measures for people who are affected by development to get on board in a way that means that there is limited cost and expense risk to them.

In other areas of work that we undertake, we find that consumers have often raised issues, complaints and areas of concern, but they do not follow through on them. There is a large drop-off when it comes to following through on that type of action. That is one area where there are issues that are not getting resolved. We would like to see some mechanism that provides support and takes away any risk that people would have in raising that sort of issue. That is an area of concern that we have right across the board. Anecdotally, we hear many people complain about and raise issues, but they are never followed through in development. Therefore, we need to ensure that effective mechanisms are in place to support people.

**Mr B Wilson:**

What sort of criteria would someone have to meet before they would be eligible to make a third-

party appeal?

**Mr O'Donnell:**

We have not gone into that in detail. We want to make sure that safeguards are in place, but work would have to be done on that. It is not an area that we have progressed. To be honest, we struggle in other areas to find that support and resolution for people. Therefore, that cuts across not only this area, but other areas.

**Mr McGlone:**

It is good to see you again, Aodhan. You raised a number of very valid points, the first of which was about how local decision-making will fit in with the delayed RPA and transfer of powers. That is one of the things that has been taxing most of us here. Many of us see it as putting the cart before the horse. The structures for local government, including most definitely checks and balances, should be in place before the powers are added on. I am glad to see that others are thinking like that and about how it ties in with other policies, such as the regional development strategy, which you heard about earlier.

I will follow on from the Chairperson's valid point about the community consultation exercise. I am sure that, like me, many other members in the room have been in situations where community groups may have one view, but, when the situation arises, 95% of the population living in the place in question could have a different view. Sometimes those views are more or less the same, and sometimes they are not. It is very important that we learn best practice in dealing with that situation for the new councils when they come through. There could be a heavy reliance on a group of people who are well organised and structured and who may be a bit more vocal than the rest of the community but who are still not representative of that community. That is a valid point.

That is heard usually when objections to a development start to appear. For example, a hall could have half a dozen people, who are the community representatives, in it one night. The next night, however, 200 people could be in that hall, singing off a different hymn sheet. It is important that that level of consultation is got right. Therefore, any good practice that you can share is important.

Finally, I would like clarity on one point. I noticed last night when I was reading your submission that it recommends:

“that DOE investigate the possibility of including Northern Ireland Water on its list of statutory consultees”.

I thought that it was already one of the statutory consultees.

**Mr O’Donnell:**

I will check back on that. I thought that it was not, but, for clarification, I will check it. We definitely raised that in our initial consultation response.

**Mr McGlone:**

I was going to add to that. There seems to be a glitch in the Rivers Agency at the moment. Although it is consulted, it does not respond to all consultations now. Clearly you are working with the agency on flooding issues and climate change, that is, the big issues that have an impact on planning. That is an important factor. If we are clarifying the number of consultees, the issue with the Rivers Agency should be highlighted too.

**Mr O’Donnell:**

I will make a point about effective consultation. What we are doing at the moment with departmental spending plans is going out and consulting with citizens and getting beyond the community groups and representative groups. The most important thing for us to do is provide information.

People accept that there are challenges and difficulties with the Budget, for example, but the fact is that, if people are given information and provided with the constraints that they are working to, consumers get it, and they make the choices. There will often be differences of opinion, but that is the process that has to be gone through to ensure that there is openness on the information, that there are options for the decisions that are going to be taken and that there is acceptance of the rationale for any decisions that are made.

It can be a long process, and it requires a lot of work in pulling together information, providing options and scenarios and the impacts of those choices, but it yields much richer feedback and an understanding of the positions, if perhaps not support all the time. We are happy enough to give feedback on what we are doing on a range of different consultations.

**The Chairperson:**

Thank you very much, Aodhan.

We will now move on to receive an oral evidence session from Community Places, which has provided a submission. I welcome Colm Bradley and Clare McGrath. Colm, you are welcome back. I believe that you are taking the lead. I will hand over to you for a presentation, and then I will open the session up for questions.

**Mr Colm Bradley (Community Places):**

Thanks very much, Chairperson, and I thank the Committee for inviting us along. For those who do not know, Community Places provides planning advice to individuals and community groups and supports and facilitate community involvement in the planning process. In our written submission, we covered a number of issues, but today I will focus particularly on community involvement, on which we have a fair degree of expertise.

We generally welcome the proposal for pre-application community consultation. However, we feel that the Bill could be improved to ensure that pre-application community consultation is as effective as possible. For us, the Bill is an opportunity to provide clarity and certainty on consultation rights and standards, not just for the public and communities but also for developers and applicants. Everyone should know what the standards and procedures are. Pre-application consultation should apply to all applications, but obviously with different standards required depending on the size and nature of the application. Regional applications should have a higher standard to meet than major or local applications. As it stands, the Bill does not require the Department to issue guidance on pre-application consultation, so we think that it should clearly state that the Department will produce guidelines.

Once the developer or applicant has prepared their report of the consultation process, people who have been involved in the process should have the right to see and comment on the report.

Those comments should then be taken into account when the Department and councils assess the quality of the report. A report by an applicant should show how they have had regard to the pre-consultation, demonstrating how they have responded to each of the issues that arose during the consultation process. That does not mean to say that they should take them all on board, but they must show that that have considered them.

Another issue came up during the policy consultation stage when we consulted with community groups. They felt that there should be independent facilitation in the consultation process, particularly for major and regional applications, and that if that independent facilitation was not available, people would be likely not to have the same confidence in the process.

It is interesting to note that the 2006 legislation required the Department to produce a statement of community involvement. That has yet to be produced. Therefore, although the requirement in the Bill is welcome, it is just repeating the requirement that was in the 2006 legislation. That being the case, we would like the Bill to establish a firm date for the Department to produce its statement of community involvement. We suggest that one calendar year should be sufficient for that. The Bill will also require councils to produce statements of community involvement. Again, we would like a timescale for that in the Bill.

To ensure consistency across the region and between all councils, and so that expectations for community involvement do not become a postcode lottery, the Department should approve councils' statements of community involvement. For some reason or other, the Bill requires councils to take account of the statement of community involvement when producing local plans, but not when producing a plan strategy. That anomaly should be corrected. We also agree with the suggestion of the Queen's University team that the Department and councils should monitor and review statements of community involvement over the years.

Others have drawn attention to the widespread support in the consultation on the policy that there should be a statutory link between community planning and land use planning. Like others, we would like to see that included in the Bill. There are good, solid reasons for that. Community planning is not just about involving communities in looking at what services are required in a local authority area. All public agencies and statutory providers are involved in the community

planning process. Many of those same agencies are involved in the land use planning process. If we create a statutory link between those processes, they can work with each other and avoid duplication. We can have co-ordinated consultation, co-ordinated research into needs and a co-ordinated approach to the Planning Service's land use and developments across the whole local authority area. Therefore, we can avoid duplication and make better use of resources. If that statutory link is not there, when the planning authority undertakes its plan strategies and its local plans, it will have to go out and do separate consultations — separate to the community plan. As it stands in the Bill, the local authority will go out and do consultation on the community plan, and, the next day, it will do consultation on the plan strategy and the land use planning. Without that statutory link, they will have to do both. If we create a statutory link, they will only have to do it once.

Having studied the evidence from the Queen's team, we also think that the plan strategies and local development plans should be, in their terms, "in general conformity" with the community plan. That would ensure that the statutory link is as strong as it possibly could be. Since both those processes are led by councils and involve all the statutory agencies, it seems sensible that they should be as strong as possible and that there should be a statutory link between the two processes.

A couple of other issues have already been discussed this morning. We think that the community infrastructure levy is slightly misnamed. The use of the word "community" suggests that it is about local community infrastructure, but, to our minds, it is not just about local community infrastructure. It is about public infrastructure. A good example of that is where a number of developments are putting pressure on public transport: the infrastructure levy could be used to improve public transport. Therefore, we suggest that it should be introduced in the Bill as an enabling power, which would require further debate, consultation and approval by the Executive before it could be introduced in any detail. As others have said this morning, we think that it should be a sliding scale.

The infrastructure levy was introduced in England some years ago. Its original basis was the understanding that when planning permission is given to a site, it immediately increases the value of that site. Therefore, the community infrastructure levy should reflect the value that has been

placed on that site as a result of planning permission being approved. If the public gives planning permission for a site through its local authority, it vastly increases the value of that site. That should be reflected in the community infrastructure levy, which would support all types of public infrastructure.

Finally, one minor point that we mentioned in our written submission was the issue of grant aid by the Department. The 1980s legislation that first introduced powers for the Department of the Environment to make grants required Department of Finance and Personnel (DFP) approval for each and every grant. For some reason, that has been carried over into the new Bill. To our knowledge, it is a requirement that no other Department has to meet. Of course, all Departments have to follow DFP guidance in respect of auditing, monitoring, and so on, but obtaining approval for every grant seems like a bureaucratic nightmare that could easily be removed.

**The Chairperson:**

Thanks very much for your presentation. There are mixed reports on the community infrastructure levy, but maybe the sign is that it will benefit the community as a whole, no matter what the development is. We were originally looking at developer contributions, but it should go back to being to the benefit of the community. Can you expand on that?

**Mr C Bradley:**

Our thinking is that it is collected by the local authority across all major applications in the local authority area. That money becomes available to the local authority, and it can decide how best to distribute it. If you link that to the community plan and say that expenditure should be for the delivery of the community plan, then discussion has already taken place on the needs and issues across the local authority area, along with the priorities for investment, and the community infrastructure levy pot of money becomes one source of investment to meet the priorities identified in the community plan.

There is a link among all of those processes. It is not just like a pot of money that a local authority can do whatever it wishes with; it has to come through the community plan in terms of identifying the priorities. Those priorities might be to improve services across a number of communities in a local authority. The levy is collected from different developments across the

local authority, so it becomes a pot of money that a local authority can use for general improvements for communities and the public.

**The Chairperson:**

OK. In terms of the whole process of local development plans, community involvement and community planning, communities will obviously have aspirations. How do you see that all rolling out under this policy? How can we ensure that there is proper participation without it being a wish list of things, so that it is only aspirational?

**Mr C Bradley:**

When we talk about community consultation, we are talking about the public as well as the community sector. It is all one to us. Hopefully the community sector will be a bit better informed and a bit better at being persuasive, but, to us, it is all one. Processes for helping people to prioritise their issues have been tried and tested in a number of consultation exercises. While they may start with what appears to be a wish list, there are techniques and methods that can be used — we have used them in large public meetings of 200 people — to help people to work through and come up with a shortlist of priorities.

The benefit of having a standardised approach to pre-application consultation, which is reflected also in the statement of community involvement, is that we will begin to develop those skills. Currently, planners do not really have them. We did quite a lot of consultation to help the Planning Service when it was developing its suite of development plans over the past few years. It is not something that planners are trained to do, to be fair to them. We found that we were training them in the course of facilitating public consultation on their behalf. It is not a skill that they are allowed to develop, but it should be. For example, mediation training has been introduced into the planning service in Scotland.

**The Chairperson:**

You are talking about training planners. There is a big need for capacity building in local councils. Do you think that there is a nervousness in the Planning Service or the Department about the transfer? We could be looking at major resourcing, training and capacity building, but you have not touched on that. Maybe I missed that point, but would you like to touch on that a



wee bit?

**Mr C Bradley:**

We will move to a very different environment when councils take over planning. The relationship between planning as a profession and elected representatives at local level will have to change. They have been separate entities for so long, and there is almost an adversarial relationship, which is not found elsewhere, between the two. Elsewhere, the profession is seen as having a professional expertise that helps local representatives to take their decisions and take better decisions. We need to get to that place. It is about developing the capacity of both sets of people to understand their distinct and complementary roles.

**The Chairperson:**

We had the Planning Appeals Commission (PAC) in yesterday giving evidence. You have talked a wee bit about the independent examination. Are you saying that the Planning Appeals Commission should carry out those independent examinations?

**Mr C Bradley:**

Yes.

**The Chairperson:**

Even though it may not have the capacity at the minute? There have been a lot of arguments over the past 12 months about its capacity to deal with public inquiries.

**Mr C Bradley:**

We need to separate the two issues of who should do it and the capacity to do it. The Bill proposes that the independent examinations will be carried out by the Planning Appeals Commission or by someone else appointed by the Department. The Bill also says that the Department will have the power to adopt or amend the report of the Planning Appeals Commission or the independent examiner. We think that there is a difficulty there. It is important that people see and have faith and confidence in the whole planning process. The reason why we have an independent examination is to provide confidence that decisions on major applications and development plans are being taken on professional policy grounds. That is what

the PAC provides. If local authorities prepare local development plans which then go to the PAC for independent examination but, subsequently, are subject to another political consideration through the Department, there is a risk that the public will not have the same confidence in the processes.

**The Chairperson:**

Should there be some mechanism to ensure that you have a plan? No plan will be 100% right; it will have to be looked at. Should that process start in councils and be incorporated at the start? We are talking about the front-loading system. It could be argued that it should be there, as opposed to every plan having to go back to be independently checked. I can only go by some of the appeals that I have been at for single houses, but they follow the same criteria. They are only reassessing whether Planning Service has properly assessed an application. It is like a homework exercise; that is what it seems to be. Do we need to look at those criteria? Are we saying that that is robust enough? Regardless of independence, are the actual criteria and the challenge and the assessment robust enough? Is there something that we need to look at? Or are you happy that PAC is confident and independent enough to assess any applications?

**Mr C Bradley:**

I think that it is independent all right. The length of time that people have to wait for their appeals to be heard is unacceptable. That is a capacity and resource issue. You would like to think that planning authorities would get individual applications right the first time. If that were the case, we would not have so many successful appeals. We continue to have lots of successful appeals, so something is not right the first time round.

**The Chairperson:**

I think that you have said enough. There is still homework to be done. We need to be looking at that now. When we transfer that down, the governance will come first; I know that members have been asking. Some people could ask why it should sit on the shelf. We have accepted this, and we have to move on with it and see what happens after this process and how it rolls out. If it goes through and receives Royal Assent, it will sit. The governance and reorganisation will come first. A lot of training and things are required in the profession; you are well linked to it. We are trying to get something incorporated in the Bill or in subordinate legislation to deal with some of

the issues that we have talked about. We have talked about an independent examination in particular. Are you happy that it should lie with the PAC?

**Mr C Bradley:**

Yes.

**Mr Kinahan:**

Thank you for a very good presentation; there were a lot of extremely useful points. You talked about independent facilitation. I am not sure what you meant. Communities will, at times, need to bring in professionals to help them with such issues as sustainability, rivers or heritage. How do you see that working? Can we be assured that those professionals are independent from government advisors? At the same time, how can they be resourced through the planning system, so that they can have the best people to advise them?

**Mr C Bradley:**

The first issue is independent facilitation. At the pre-application stage of a major development the developer is required to consult under the Bill. As it stands, the developer can do that himself or appoint a consultant or someone who will do that for him. So the developer will have complete control of the process and produce a report on it. As the Bill stands, there will be no independence in that process. Let us suppose that a developer appoints a consultant to facilitate a public meeting. That can be done in a very fair and equitable way, or it can be directed to make it difficult for people to participate. If that begins to happen, public confidence in pre-application consultation will dwindle.

We need to ensure that, when we introduce this, we build in safeguards to ensure that it is properly done and reported on and that everyone can see that the issues that have been raised are in the final report. The suggestion that came from community groups was that the planning authority would have a list of independent facilitators who would be approved by the local authority. The developer would have to use one of those independent facilitators.

**Mr McGlone:**

One thing is flagged up in your submission is your recommendation to add to clause 1(1) of the

Bill the words:

“and to secure sustainable development, tackle disadvantage and poverty and promote inclusion and equality of opportunity”.

That is something that the Committee should discuss and tease out further: how those values can be incorporated into the Planning Bill. Thank you for making that suggestion.

I am intrigued by this community infrastructure levy or public infrastructure levy. The Chairperson also touched on this. One of the issues that has been kicked about the place is the developer contribution. It was kicked from one Department to another, and then disappeared for a while. It became a big issue when things were going well but it has not been such a big issue recently.

We have the proposed hike in fees by the Department and we have this public infrastructure levy — and I accept the thematic areas around it and the principle of it. However, do we throw into that the developer contributions as well? Is it the thinking that the developer contribution potentially equals the public or community infrastructure levy? We could have that many levies that, by the time you wind up building a house, only millionaires could go into it.

**Mr C Bradley:**

On the fees issue, the fees should be a total cost recovery for the administration cost of processing applications, and nothing else. That is all fees should be.

We make a distinction between developer contributions and infrastructure levy. To our minds, the article 40 developer contribution should be for the immediate impact of that development. The developer should pay for anything that is consequential, or that needs to be done to allow that particular development to happen. Where the local infrastructure requires improvement in order for the development to happen, the developer should pay. Sometimes you see road improvements or local improvements to water and sewerage. Where that particular development could not take place unless those improvements were made, the developer should contribute to those. They are immediately associated with that site.

**Mr McGlone:**

I wonder where the other concept fits in. In your submission, you say that:

“developers should make a greater contribution towards the provision of infrastructure”.

Fair enough, a lot of us are chasing round our own constituencies where developers have gone pear-shaped or are getting it tight at the minute, with Roads Service or Northern Ireland Water, to try to have infrastructural systems adopted.

I thought that I was clear in my own mind about the issue of developer contributions, and I am trying to find out about the infrastructure levy. Forgive me, because I am from up the country, but it seems to my mind that there is quite a considerable overlap, if not in the concept itself, then certainly in its outworkings. There is considerable overlap, and there needs to be a fair bit of teasing out of the issues and of their implementation before we go in the direction of one or the other, because you could wind up having a heap of things to be done before you lay a block. I do not mean that in the wrong sense, but we want to ensure that that is done with clarity and that we know precisely what this is all about. At the moment, I am a bit confused on it.

**Mr C Bradley:**

I will illustrate with an example. The infrastructure levy applies to major developments, not to individual households. Let us suppose that there were an application for a new shopping centre that required a slip road for people to get into it. That would be an immediate consequence of that shopping centre development, so the developer should pay for it. The public should not pay for the slip road into the shopping centre.

**Mr McGlone:**

That would usually be part of the application anyway.

**Mr C Bradley:**

Yes. The infrastructure levy would recognise that, in order for people to get to that slip road, they would make wider use of the whole roads infrastructure and wider use of public transport. Who pays for all of the traffic that is generated for miles around to that shopping centre? At the minute, taxpayers pay for it. Taxpayers pay for wear and tear that is caused to roads and for public transport that is used for people getting to that slip road. Is that OK? Maybe it is not.

**Mr McGlone:**

But if they are not going there, they are going somewhere else.

**Mr C Bradley:**

Maybe they are, and maybe they are not.

**Mr McGlone:**

I say that because I have gone through quite a contentious case on my own patch. I have gone through the retail impact assessment stuff, which deals with the offloading of customers from one place to another, their transportation and all that sort of stuff. Forgive me for labouring the point, Colm, but I am trying to get into my head the distinction between the developer contribution and the infrastructure levy.

**Mr T Clarke:**

I agree with Colm. Sometimes roads need to be widened as a result of a development, especially housing developments. Why should a road be widened at the expense of the public purse when it is enhancing the development? The development cannot happen without road widening, so the developer should pay. That is part of the infrastructure levy.

**The Chairperson:**

To move it on another bit, a major housing development would need a recreational facility. That has community benefits as well. Developers put in footpaths and all anyway, and I would like to go down that route as well. It is a DFP issue. How do you put that in?

**Mr T Clarke:**

There is a danger with that.

**The Chairperson:**

All I am saying is that that is what a community levy could mean. I am not saying that it is right or wrong; I just want to get a better understanding of what we could be looking at.

**Mr C Bradley:**

Perhaps a better example is play facilities. Currently, if there are a number of reasonably sized housing developments in an area, you cannot require each of the individual applicants to provide

a play area, so it either does not get provided or it gets provided by the taxpayer or by the community infrastructure levy.

**Mr T Clarke:**

With many applications, there has had to be provision for play areas, and the developers are content to do that. People who are buying into developments and who are going into contracts with management companies are unaware that, when the playground wears out in 10 years' time, they will have to stump up the money to pay for it again. There is a danger with trying to encourage too much of that, because it is the public who have to pay for it.

So, although it is a good idea for the Planning Service to insist that there has to be play areas or community facilities, and the developer will, with good intentions, build those for the community, the community will have to pay for the running costs later. The replacement costs after the facility wears out must also be considered.

**The Chairperson:**

I am just making the point: I am not saying that I am for or against it. That is just what we are looking at.

I have one final point to make about rolling out the workforce model for delivering the Planning Service, especially the development management end. People have spoken about the fees structure and the rates base. How can that model be properly funded? Although the Planning Service is a public service, it still has to be run as a business. We spoke about receipts being down. Have you any views on that? I know that this is a difficult issue, but it was always said that resources would go to the councils.

**Mr C Bradley:**

First, should we be aiming to increase fees to ensure full cost recovery? When times are good, that is OK. However, times are not so good now. There is probably a core basic cost to providing a planning service that the taxpayer will always have to meet, so, I am not sure that full cost recovery through planning fees is possible. It is the direction in which we should be going, but we will always have to accept that there are core costs, particularly around developing

planning policies, and I am not sure whether planning applicants should be required to pay the cost of developing such policies. However, if the cost of planning policy-making could be separated from the cost of administering and assessing an application, the taxpayer would pay for the general planning policy work, planning fee administration and application.

**Mr T Clarke:**

We are in the bad days now, so we have probably reached the bottom. In the good days, they should be collecting money, because they should be profiting from the receipts that they get from planning applications. They should not reduce those receipts when the good days come back. They should continue at the same price, which will bankroll them again.

**Mr C Bradley:**

One could also have an infrastructure levy, which one could be raising in the good days.

**The Chairperson:**

That is the good thing about the levy. However, you are correct. The Committee has said on a number of occasions that during the good days the money was going away. It was not about just covering the cost of the application and the service; the money was being sent back to the Treasury. We are saying that that money is part of the levy and could be built up. We need to look at that again.

**Mr C Bradley:**

A levy is also very flexible and could be changed within months. There would be a sliding scale because it would be introduced by regulations. The sliding scale could be changed within a couple of months and one could follow the market.

**The Chairperson:**

That sounds great in principle. Thank you very much.

We will now receive an oral evidence session from the Ministerial Advisory Group. I welcome Mr Arthur Acheson. You are very welcome, and I will hand over to you, and then I will open it up for members' questions.



**Mr Arthur Acheson (Ministerial Advisory Group):**

Thank you. I have been following some of your work in the Hansard report. You have done a lot of work here, and I must say that it has been terrific. Chairman, I was particularly interested when I read several references that you made to the word “place”. That is key, but it is something at which Northern Ireland has been particularly bad.

I have taken the principles of the Commission for Architecture and the Built Environment (CABE). It is a threatened group now, but it essentially runs an equivalent function in England to that of the Ministerial Advisory Group here in Northern Ireland. CABE talks about the design, management and maintenance of a place. Community involvement is key to how places will emerge in the future. I notice that the Committee has spent a long time on community involvement already. Solutions may be emerging, and I would like to bring those to you today.

The notion that we involve people, rather than just consult them, is terribly important. During some of the conversations at these meetings, the words “involve” and “consult” have been used as though they mean the same thing, but they do not. Therefore, I am pleased to see that the Department is talking about community involvement. I have a long history of working with communities in Northern Ireland. In my experience, the best way to involve them is to reverse the three ideas that CABE talks about; design, management and maintenance, and begin with maintenance.

First, we should look at how places are maintained and what we can do about the usual issues that people raise about their places, such as litter, dog fouling and chewing gum. We should look at the fact that different bodies look after different parts of an area, and we should examine people’s involvement in cleaning-up and maintaining a place from a young age in school. By maintaining a place, which is what people do to their own property, they get to know it, understand it and see the issues.

We then move to the next step, which is management. How do we manage that place for betterment? If conflicting Departments are involved, which is often the case when it comes to maintenance, the Roads Service may go to one part, the Housing Executive to another, and

nobody looks at the bit in between. We find that people try to discover who owns the piece of ground in between and which public body is responsible for it. Local communities have a fundamental right to know who is looking after their place. We then ask how we can get those people to work together, and how can we work with them to manage events such as the switching on of the Christmas tree lights, the provision of those lights, or the insurance for the Christmas tree, the carol service, or whatever is necessary for the management and better use of the place. That is the next stage. From that comes the brief for the design. Therefore, when we talk about the design of a place, people have become knowledgeable and aware, and they have had an input into running and maintaining it, and we have a much better opportunity for design or planning. That is the general format of how I see involvement taking place.

An extremely good model exists already in Northern Ireland, and I referred to it in my paper. I have brought some copies along today, although I was able to get only half a dozen from the Housing Executive. It is called the Housing Community Network, and it has been running for 20-plus years. It is not a statement of community involvement by a council or by the DOE; it is a strategy for community involvement. The present edition that I have with me today, and which I am happy to distribute, is for 2008-2011. As we sit here, the strategy is being revised in an office in the city centre, and that involvement strategy will run from 2011-14. It is always a three-year run.

From that strategy, I see a huge opportunity to devise the basis on which legislation for planning could be framed, rather than the Department putting out something in which it attempts to agree a statement of community involvement with, perhaps, a new council. It has not done so in the five years since the Planning Reform (Northern Ireland) Order 2006, which required it to produce a statement of community involvement.

The symposium convened by the Ministerial Advisory Group last September called on the Department to prepare and produce policies behind that statement and the statement itself, and offered the assistance of the Ministerial Advisory Group to do so. We have had informal discussions with Planning Service officials on the matter.

However, we see this issue as being more than a statement. We see it as being a genuine

strategy. It is about involvement, not consultation. For example, looking at the next stage of producing a plan, a community plan, or a planning application that is in the system, there is an opportunity for Planning Service officers and the community in the area to be involved, whether it is in the visioning process, making that visioning process into a plan and relating that to a community plan; or whether it is a housing matter, a policing matter or a matter of public safety or cleanliness. We find that the group of active citizens in a community is the group that we are talking about and which is already involved as one of the 600 groups in the Housing Community Network.

I suggest that, with a bit of work between DOE and the Housing Executive, there is a huge opportunity to produce what I call, characteristically, a community network. Instead of extending it and calling it a housing and planning community network, I am saying that we should step back a bit and think of all the opportunities where the existing 600 groups, which are part of the strategy that members have in front of them, the existing 35 districts of the Housing Executive, and the five regions, could work together on the kind of community involvement that we feel is necessary for making plans, implementing plans and the management of development.

I will give you another example, which shows a very simple means of facilitating community involvement. In the past number of years, the Department has formalised pre-application discussions (PADs). The PAD is an opportunity for a developer to talk to the Planning Service at an early stage. There is a very simple recipe here for community involvement at the right stage. We have been talking a lot in various sessions about front-loading. In this case, front-loading would involve PADs becoming public. In other words, they would be advertised and neighbour-notified to those who will be most closely affected by the development. Therefore, when a developer meets a planning officer, it will not be perceived by the community as something that is happening quietly and in secret to set something up; it will give neighbours an opportunity to come in at a time when plans are at their most sketchy.

I am an architect, so I know about the amount of work involved in developing a scheme, and I know that if early indicators come from the community, it is so much better. Rather than making it a separate community consultation process, the process already exists through the PADs. Those should be opened up to the neighbour-notifiable residents or businesses in order to allow

them to get involved. I have taken many schemes to the point where the community was going in one direction and the developer in another. In one case it was only at the last minute, by bringing them together in the planning office, that we discovered that the issue was all about the direction in which three windows faced. There were months of delay, because the planning officer was not coping with that.

The planning officer is not a trained integrator or designer. He is, essentially, trained to be a decision-maker. When he gets conflicting requirements; those make the process very difficult and long and drawn out. I have another planning application that has been running for seven years. It is still undetermined. It could go to appeal at any time and be determined in four weeks, but we would rather see it through.

The issues are about getting the early involvement of people, and I say involvement, I do not say consultation. That must be written into statute, otherwise it will not happen. That is a summary of my thoughts. I am very happy to take questions.

**The Chairperson:**

Thank you very much. That was one of our more lively presentations. To be honest, I have mentioned place on a number of occasions, but the key is to marry that with participation. People say consultation, but it is about participation.

**Mr Acheson:**

It is continuous too. It is exciting, Chairman, if we get it right. However, at the moment, the Bill has flaws that need to be corrected. The perception and concept need to be better.

**The Chairperson:**

You have created more questions for the Department than for the Committee. You have talked about the Community Involvement Strategy model, which is fine; there is a good body of work in that, and we will certainly be talking about it. Funnily enough, we also had a good presentation from the Housing Executive yesterday.

**Mr Acheson:**

I read its document, and I was very impressed by its co-operative and participatory role. That is the nature of the Housing Executive, it really is.

**The Chairperson:**

Obviously, we will be knocking on the door of the Minister for Social Development to ensure that he follows that through, but we will not get into that.

I want to ask you about some other views on existing plans — *[Interruption]*.

Will members please switch off their mobile phones? They interfere with the recording system.

Until now, this has been about zoning land. How do we marry that with community involvement and community aspirations? We do not want to send out the wrong message. There is a lot of capacity building to do, such as training councillors and looking at how we propose to move the planning process to council level. We have a wee bit of work to do.

**Mr Acheson:**

There is a huge resource in Northern Ireland comprising people in their local places. They are the ones who, I always find, know their places best. They are always “consulted”, or in other words, their ideas are taken. Those ideas are then taken by the consultant who makes it into something that he thinks those people should have. The ideas then become some sort of a plan.

That is, frankly, the wrong process. It is not what people would do in their own houses. People get to know and understand their places. The ability of the Planning Service, the Housing Executive and private sector planning consultants and architects to enable those people to do things is remarkable.

There are some very good examples of local master-planning going on, and those are involving people. One is in Glenarm, another in Bushmills, and another is in Glenariff. They are

very local plans; only the size of a super output area or a ward. They are referred to in the Ministerial Advisory Group's paper.

The Housing Executive manages 600 local groups that contribute to their areas. That equates almost exactly to the number of wards in Northern Ireland. The Committee knows that each ward has an elected representative and an administrative system already in place. There are 586 wards and 600 community groups in the Housing Executive system. The Housing Executive manages those 600 groups with terms of reference, capacity for people to attend meetings and get a small fee or expense payment for doing so, and capacity to provide them with tools for maintaining flower baskets in villages, painting toilet doors or whatever. If one body can do that, another can do it too, given that, as you said, a lot of the work has already been done.

Therefore, as we move to 462 wards in the proposed new system of 11 councils, the capacity is already there in the local people. There is more than one planning officer and architect for each ward already. A little bit of voluntary effort is needed. I put two hours a month into one community group. Now, it is applying for its own grant aid and is meeting with the rural development programme. After three years, and with two hours a month and a little village plan, the capacity that is already there is amazing, but they do not even know it. At the beginning of the process, those people asked me whether one could talk to the Roads Service. Now, Roads Service is talking to them, when they want dropped kerbs or some other small maintenance or management improvement in the village. They are now working together, so that Roads Service does not have to do it twice.

There are a lot of words in government such as "engagement", "stakeholders", "effective" and "efficient". I am tired listening to them. What we have to do is get on and do it.

I suggest that when we make local plans, a lot of the work has already been done. The DSD has a lot of local plans already, councils have a lot of local plans, and the DRD has them too. The Prince's Regeneration Trust has been assisting, and the rural development network, which operates through DARD, also works on such plans.

A lot of local blocks of planning and issues have been dealt with. We have 130 identified

landscape character assessment areas in Northern Ireland that were all done 10 years ago. That was exceptionally good work, and it can guide the process for local communities. A four- or five-page booklet about a local community tells people what environmental issues and concerns there are. People can write a plan for their local place. It does not need consultants; it needs only a very small amount of local professional participation to assist the process. One place that I work with takes two hours a month, which is not a lot to ask.

**The Chairperson:**

No, it is not. I think you have hit the nail on the head. If we used a common-sense approach, we would get there. However, that is seldom used. When you are dealing with planning and planning applications, there is no point in talking about a common-sense approach.

We do not want this to be a consultation in which people say what they feel, but then they go out the door, and no weight is given to that.

How do we ensure, in the statement of community involvement or whatever way we want to put it across, that there will be proper participation and that the views will be taken on board?

**Mr Acheson:**

We go on the basis that the statement does not become something on which we tick the box to say that we have done it but that it becomes a strategy. That is the way that the Housing Executive has tackled it. It should become a strategy for community involvement, and that includes public or, at least, neighbourhood-notified pre-application discussions. We should put those into statute and make the Planning Service work to those rules.

In fact, I often represent the developer as much as I represent the community, because I am an architect and work with both. I find that the developer appreciates early certainty just as much as the community does. Particularly if a design input is brought in during the process, there are often double benefits. There are benefits to the developer in understanding what the community needs and wants, by being able to perhaps pick up another site and provide that for it, making a few quid on the way, helping the economy and meeting local needs. Unfortunately, the Planning Service has got in the way of that, which used to be a natural process. It has pushed them apart. It talks about involving them, but it does not know how to do it. For five years, it has not done it.

**Mr Kinahan:**

I find it fascinating to hear those extremely good ideas. My biggest concern is almost the first. At the beginning of all this consultation we had the community involved. It was not only the people who lived in an area but the people who worked there and passed through it. In fact, by the time that we had finished, it was everyone who touched it. That dilutes your ownership concept. Yes, everybody in Northern Ireland owns the thing, and I wondered how that concept could work with such a huge body.

Another comment was that the Housing Executive is only in certain patches, in that there are certain parts, whether rural or others, in which we do not see it. The third comment is that, in South Antrim, there are 330 different community groups, and there is not one that represents properly one area. Sometimes there are five in one town, and they all compete and disagree with each other, with the end result that nothing gets done. It is a fantastic piece of work and ideas, but —

**The Chairperson:**

I know one area that we are not going to.

**Mr Acheson:**

I realise that those are real issues. I do not go to 600 housing community networks. There may be things there that interest me, but I do not go to those. However, if someone asks me to take an interest in their area and come to sit in on a housing community network meeting, I do that. I go to about two housing community networks out of 600. I sense that the Housing Executive has managed to create a system whereby those people for that place are elected into post. They must be constituted and elected, and it is a three-year strategy. Interestingly, the Housing Executive's document up to April 2011 says that, if you are not part of a housing community network, you might be thinking of a village champion or a rural person who takes a lead and takes responsibility.

We are talking not about power but about responsibility. A group of people, insiders and outsiders, might be willing to do the maintenance tasks and the management tasks. People paint



public toilet doors because they do not want to see the graffiti on them. The Housing Executive provides the paint, and the local council is happy for them to do that because it saves the council from having to do it. I know that those people feel that the smallest encouragement really does them good. They are getting to the point where they can have their own Christmas tree, get their own place organised, pay their own electricity bill and run their own car boot sale.

To me, that is what it is about, and you can grow that even out of the most adverse circumstances of people not working together. They will work together, and it is about continuous involvement, not about power or consultation about design but about rolling up the sleeves and saying that they will get a bin lorry from the council and clean up an area. I have even done that with groups of very disenchanted children. When I first go round, they ask me what I am doing. When I tell them that I am picking up litter, they tell me that they will throw it down again. By the end of the afternoon, they too are picking up litter.

When I see them throwing stones at the digger driver who is trying to clean the road, I say: “Right, I am going to get black bags out of my car and we are going to make some money, guys. We are going to lift these cans, and each can is worth a penny when we take them to the community centre.” That starts the process quite early, is not difficult to do, and saves diggers from getting stoned.

**The Chairperson:**

You talked about business improvement districts. Will you expand a wee bit on that?

**Mr Acheson:**

Business improvement districts are part of the planning system in other regimes. They are recognised by and integrated into planning legislation. We have been very slow in doing that in Northern Ireland. There is an opportunity once again for the Department of the Environment (DOE) and the Department for Social Development (DSD) to discuss this. DSD is taking an interest, but I believe that its legislation will come along much later. So, there is an opportunity in this Bill to have the business improvement district legislation written in as part of DOE.

I would prefer that rather than enterprise zones and zones of simplified planning control,

which are from some other era. Those have both been tried but have not been particularly successful. Business improvement districts are what town and city centre managers are looking forward to. Again, it involves local businesses. If a certain percentage of a certain size of local ratepayer decides that there should be a small levy on top of rates for specific environmental improvements, for example, or specific events or marketing, then all the people in the area contribute to that.

There is a huge opportunity there to see that level of business community involvement in a place. To get that growing locally with some additional local funding, instead of depending every time on DSD, DRD or DOE coming in to do something to the place, really does work in other places. It is big in the South of Ireland and in parts of Great Britain. It has not come to Northern Ireland yet. This is an opportunity to work with DSD and decide whether it is better in this Bill or in some future Bill that DSD will put forward. I would prefer that it went in now because the people on the ground are itching to get on with the job.

**Mr McGlone:**

I am sorry that I had to go out earlier, Mr Acheson. I did not hear all your presentation, but I read it last night. I am interested in your point about business improvement districts. However, I am also interested in those simplified planning zones, and we have tried to elicit more detail from the Department about those.

Up until now in my mind, from what I have heard, they are still a nebulous concept. I still do not have an idea how they work in practice even after hearing someone trying to explain them to me. I am interesting — in fact, intrigued — to see that they were introduced as concepts elsewhere, and I think you said that their success was limited, which is maybe an exaggeration. We do not want to be repeating failures here. Where were simplified planning zones brought in, and where and why did they fail?

**Mr Acheson:**

Can I come back to you, Chairman, on that one? I do not have that sort of data with me. However, the principle there is that anything goes. Looking at Northern Ireland, with its 130 landscape character areas, we really do not want places where anything goes. We want the

people in those places to be closely involved at all stages in maintaining, managing, designing and planning those places, and not simply to say that anybody who buys a piece of ground can suddenly come in here and do something. That will never be right. On principle, it is wrong.

We are all aware of enterprise zones. They have been through the mill and have not come up with the goods in Northern Ireland. Business improvement districts offer much more in terms of local involvement and local enterprise, which is what this place desperately needs.

**Mr McGlone:**

Thank you.

**Mr Acheson:**

I can get you more information.

**The Chairperson:**

Can you send us more examples of that, so that we can have a better idea of what you mean?

**Mr Acheson:**

Yes. I will give you the business improvement district schemes. It is well known in DSD circles, where it is being discussed at the moment.

**The Chairperson:**

Thank you.

**Mr B Wilson:**

In your submission you referred to areas of townscape character. That is something that I have been fighting for 20 years now. Now, the Belfast metropolitan area plan (BMAP) might finally be published and we might get some areas of townscape character. They are not in the Bill. What does that indicate? How could the Bill be improved to include them?

**Mr Acheson:**

That is my question. The Bill spends pages and pages on conservation areas, but not a mention of

areas of townscape character. Yet the area plans put forward both. What is the logic of being prescriptive and very descriptive about one, but having no knowledge or information of the other whatsoever? You either put them both in or leave them both out.

I know that there is stalling going on in Planning Service about areas of townscape character. I was involved in the early 1980s in promoting an area to be a conservation area. DOE did not allow it. DOE said that it would consider declaring the area an area of townscape character. The residents got together and produced a fully-fledged document of 50 pages. Every tree in the street was named, every house type. All about it was named. DOE said, thank you for that and we will think about it. Two years later, DOE declared it an area of townscape character. It was nothing to do with an area plan. There was no requirement to wait for an area plan whatsoever. Two or three years after that, DOE decided to upgrade it from an area of townscape character to a conservation area. Residents were delighted, but it took five, six or seven years of strong lobbying by them and a lot of work by local people in producing their own document.

I tried to do the same thing recently with another area which was threatened. In that case, the Planning Service, with no change in regulations or system, told me that it could not do that because it was awaiting a decision on the area plan. That is absolute nonsense, because it was done outwith the area plan process previously under exactly the same legislation. The service needs to be sorted out on that. That is the reason why this problem needs to be highlighted.

Another point is that areas of townscape character and conservation areas are influenced by, and demanded by, the local people. If they are foisted upon the people from above, they are not appreciated. If they are demanded by the people, they are appreciated. In the first example that I gave, several houses which were in multiple occupation, or were institutionalised, returned to single-family use as a result of the area of townscape character and conservation area, which was precisely in accordance with the betterment of the area and suited all the residents. Of the residents who came to a public meeting to start that off, 49 out of 50 said that they would stay in the area, would not sell up and wanted their place protected. It worked. It is still there; it is still beautiful. We can do it.

**The Chairperson:**

The whole process is about community buy-in. That is better than, as you said, foisting something upon people. The first thing people do is object or ask a question.

**Mr Acheson:**

It is also hugely more expensive to do it the way we are doing it.

**The Chairperson:**

Thank you very much, Mr Acheson. I am going to have to suspend proceedings for a few minutes — *[Interruption.]*

No. I retract what I have said, and we will continue with our final evidence session. We will receive a presentation from Professor Greg Lloyd. Professor, you are very welcome. We have been keeping that seat warm for you.

**Mr Weir:**

You do not know how welcome you are.

**Professor Greg Lloyd (University of Ulster):**

I am afraid that I did a wheelie coming into the car park.

**The Chairperson:**

You know the format. Welcome back. Long-standing members of the Committee remember your contribution to the Committee in this whole process.

**Professor Lloyd:**

Thank you; lovely. I understand that I have about five minutes.

**The Chairperson:**

I will not debate that point after the members have been waiting.

**Professor Lloyd:**

I thank the Committee for the invitation to come along. I will say only a few words. I draw most of my observations from a number of sources, one of which is that — and it grieves me to say this — for some 30 years I lived and worked in Scotland and was heavily involved with the reform and modernisation of the Scottish planning system, which is still unfolding. I still relate to that and get involved with it at various points.

In 2007 I was invited by Minister Foster to become her independent adviser on the land reform taking place in Northern Ireland. I was then based in Liverpool. In one of those coincidences in life, I was then able to come to work at the University of Ulster, which has been very pleasant. I no longer fill that role for the Minister because it ended once my report was submitted. However, I take a critically reflective and friendly view of what is happening in Northern Ireland, and I do draw down on my experiences if that is OK.

You will notice from my submission that I make reference, probably overly so, to what has happened in Scotland. However, what is happening in Scotland, Wales and Ireland is changing very dramatically, and certainly the Scottish model is a very useful template for Northern Ireland. Indeed, quite a lot of its principles have been picked up and imported.

The Planning Bill is to be commended because of its attention to proportionality, to front-loaded engagement, and to putting greater responsibilities on all developers, from householder up to major developer, to come forward with the right information so that decisions can be made.

As an economist by training, I tend to see the world under two headings. The first is the institutions under which we operate, and I organised my thinking around that in my submission. The institutional framework is really the rules of the game, and there the Planning Bill has met quite a number of its initial objectives. It wanted to make the system in Northern Ireland much more efficient, effective, transparent and open to civil engagement. That is to be commended.

My reading of the substantial number of clauses shows that the Bill has gone a long way to achieving that. Embedded in there are some very nice nuances whereby the planning system can adapt to development proposals and respond to them appropriately. So, large and small

developments will be treated appropriately. That model is working very well in Scotland. The ethos of the Planning Bill in promoting a greater awareness of rights and responsibilities is also to be welcomed. We have the beginnings here of the rules of the game being put into place.

The other heading that I tend to think around, which is where I do have some observations, is what we could call the organisational delivery mechanisms for the Planning Bill. I have reservations there. I am concerned that there are loopholes and gaps in the areas of strategy and strategic thinking. The fracture between the regional development strategy and the statutory planning system is a major issue that we need to address.

In Scotland, the planning hierarchy, which the Planning Bill puts forward with different scales of development and different types of administrative response, keeps at its apex what is called the national planning framework, which is more or less the equivalent of the regional development strategy. That means that all planning decisions cascade within that statutory planning framework.

The important thing is that during the Scottish parliamentary debates on the importance of planning reform — particularly the nature of the national planning framework, because Scotland did not have one before — it was looked at in some detail by the equivalent of the Environment Committee, but also by the Economics Committee. That Committee said that it recognised the potential of the proposed national planning framework to be not only an integral part of that planning hierarchy but also to have statutory force. Indeed, that is what happened.

The subsequent legislation made the national planning framework an issue to be debated in the Parliament. It is not a spending document, but there is an implicit notion that funds will have to be dedicated. Importantly for planning, it becomes a material consideration. The framework provides certainty and consistency for the planning system. I am concerned that in Northern Ireland the regional strategy and the statutory planning system running in parallel will be a problem. The Planning Bill is wonderful, because it refers to “compliance” and “consistent with”. That is terrific. However, if you put a lawyer in between those two words, you will have problems. It is as simple as that.

The second thing is that in the Planning Bill — and I have referred to this — there are a number of instances where the centre, appropriately, will be the point of reference for particular developments, those of regional significance and that type of thing, or where a development plan is not prepared sufficiently quickly and so on. What is the strategic framework against which those decisions are being made? If it is simply compliance with the regional development strategy, it could be interpreted in a lot of ways. It worries me that we are not integrating the completeness of the planning system in Northern Ireland. That is my main concern.

My second concern — and you get the impression that I welcome the Planning Bill very much — is that it makes a lot of assumptions about the required culture change. I hate that phrase, “culture change”, because this is about rights and responsibilities. My experience is that, though Scotland initiated its planning reform in 2001 leading to legislation in 2006, this year Scotland is still trying to define what is meant by an appropriate culture change. It is not simply about developers providing all the information that they are required to in order to facilitate an effective decision-making process. It is not solely about the planning system realising that it has a very important role to play in facilitating economic investment and development. It is also about the complete understanding of everybody about the importance of the planning system.

The planning system is a statutory function of government. It is there to serve a number of purposes. One is to protect private property and encourage private investment and development; another is to serve the public interest. We need to respect that. If I can be rude — I do not mean to be personally rude, but if I can make an observation — in my three years of living in Northern Ireland, what strikes me very much about the practice of planning is that there is a politics of resistance. No one likes it. People resist it at all times. Hence, people have recourse to judicial review. People speak badly of the planning system. On my desk, I have a headline from the ‘Belfast Telegraph’ that I look at every morning, which says that the planning system has made Northern Ireland a laughing stock. To be frank, how dare those sentiments be said about something that is here to protect everybody’s well-being and sense of interest? That is my concern.

How to get there? The Scottish experience shows that it takes a long time, but it is possible. One of the things that took place in Scotland was a number of what Mr Salmond would probably



call “national conversations”. They brought together developers and agencies and got them to realise that they needed to support the planning system and respect it and respect the reforms. That is beginning to work through. The city of Edinburgh, for example, has now reached and published a planning concordat with developers in the city, so that developers of every scale and the planning authority know exactly how they can facilitate very efficient and effective decision-making. It is not scientifically proven but the anecdotal evidence is that it is working very well. Developers feel much more relaxed and confident about planning and, equally, planners know that they have explained their position to the developers. All this is part of the culture change.

Another dimension to that, which was achieved in Scotland and which I think is very important, is that many of the delays in the planning system are a consequence of the statutory agencies, be it environmental, health and safety or whatever, dragging their heels in responding. Again, national conversations in Scotland have got all the agencies to change their views on that, and they now treat the planning system differently. Instead of scrutinising development plan after development plan looking for problems, the agencies are proofing them to check that the plans are doing what they want. That is not splitting hairs; it is actually a very different way of dealing with this.

One last thing, if I may. I am talking very quickly as well. There is a conversation to be had in Northern Ireland, quite apart from the strategic and culture change and the associated resourcing of planning. Planning is fundamental to our well-being as a society and, my goodness, are we not facing major economic, social and environmental challenges? It is important to recognise, when we look at history, that there has been a major recession. The English press refers to it as a double-dip recession; in my view, it is a depression. We have only had two depressions in our modern history, one in 1893 and one in 1929. In the recovery process, a very strong planning system was put into place: in 1909, to guide new investment and provide certainty to developers and in 1947 — and this affected Northern Ireland as well — to recover from the depression of the 1930s. Now is the time when we need to be investing in and resourcing the planning system. New skills are needed. We will not be constructing high-volume, greenfield-site housing developments any more. We will be building retro, energy-efficient buildings, drawing down on looking after people, addressing things like fuel poverty and the need for affordable housing for people adversely by the economy.

My final point is that we need to have a conversation about where the planning system sits in the Northern Ireland Assembly Government. I refer again to Scotland. In 2007, with the election of a Scottish National Party Administration, responsibility for statutory land use planning moved from the then Department of Communities to the Economy Directorate. That was an incredible statement that planning was not simply a residual thing that mopped up the need for housing or poverty or whatever; it was a mechanism to deliver economic well-being. We need to look at that, because it would be very important for the future of Northern Ireland.

**The Chairperson:**

Thank you very much. That was the slowest five minutes that we have been through all day. I was here when you brought forward proposals last time with Minister Foster.

You keep referring to the Scottish model. How long has that taken to bed in? You mentioned the national planning framework. You know that here we have the RDS (regional development strategy), the area plan model and a suite of PPSs. I am sure that there will be up to 50 of them by the time this mandate ends. How does that all marry up to what happens in Scotland?

**Professor Lloyd:**

I will briefly describe the Scottish model. There is now a statutory national planning framework. That takes a pan-Scottish view and sets out the development priorities for all the bits of Scotland. Scotland is like Northern Ireland; there are marked contrasts between urban and rural, coastal and river plain and so on. We also know that nothing sits still for long. Economic activity moves very quickly. We know that there are strong demographic moves, as well as the reconstitution of our population. We are aging, and so on.

In Scotland, there is a very deliberate relationship between the statutory national plan and the development plans. For example, development planning in Scotland is organised around the four cities — we could do it for Belfast and Derry — where there are strategic city development plans. Those plans are made up of a vision statement and detailed policy plans. That is not a million miles from the Planning Bill. Elsewhere, there is just a single, unitary development plan which is supported very heavily by the planning policy statement.

What Scotland has done which in my view is wrong — and I am very critical of it — is reduce something like 27 Scottish planning policy statements to one. The view was that, by bringing them all together, they were proofed. Sadly, life is rather more complicated than that. If you have something with a bit of an economic dimension, it might emphasise something more than something that is environmental. This unitary planning statement has obscured the fact that change in society is very dynamic and we need sophisticated and dynamic provision to match, deal with and anticipate it.

Again, that is a personal observation. Scientific research has not been conducted into that, so the evidence is purely anecdotal. Needless to say, the legal community in Scotland is very pleased with the unitary statement.

**The Chairperson:**

I think that we have received 11 presentations over the past couple of days. A lot of things have been tied in together, and a lot of groups have mentioned matters such as third-party appeals. You mentioned front-loading. On the face of it, that is fine, but it is all about who should be included. That is one element, but the key for me is actual participation and what communities will get to say. How has the Scottish model struck that balance between economic development and community aspirations?

**Professor Lloyd:**

The issue is about talking. Over the past 10 years or so, there have been a lot of conversations and meetings, and people have been talking about those matters. Developers, small builders and householders now realise that developing something in a particular place will affect people in different ways. There has been quite heavy investment in Scotland in trying to raise people's level of awareness. It is realised that the issue is not about the politics of resistance and that it is important to talk and reflect and to have different ideas so that people can perhaps come up with their own options and observations. The development community has changed. It has learned that, if it wants to put forward a medium-sized development somewhere, it is important that it goes into the community and tries to perhaps raise a level of consciousness. There are some silly things involved. For example, Northern Ireland, like Scotland, requires planning permission for telecommunication masts, but it is not required in England and Wales. A lot of people will object

to a telecommunication mast immediately by ringing up on their mobile phone.

Scotland has linked its national planning framework to the planning system and has also begun a debate about the importance of the land resource to Scotland. In parallel, Scotland is now publishing and preparing what it calls its land use strategy. The national planning framework provides the urban input, and a rural study was conducted to gain the rural input. It is very much like the study that was conducted by the foresight group in the Department for Business, Innovation and Skills (BIS) in Westminster. The importance of that study is the realisation that we do not make land any more, and that, by and large, land is fixed in location and quality and that we are losing land through coastal erosion and flooding and so forth. We need to have a very good sense of the limits. That is the worry that I have about, on the one hand, the regional development strategy, which is very appropriately driven by economics and trying to get a balance across Northern Ireland, and on the other, the planning system. There is a mediation process between the two that discusses how the economic priorities and so forth hit the land resource and that asks how to allocate that land resource. That is an absolute imperative. When people start to talk about land, they realise how important it is to society. It is interesting to find that when something is built on land, it is fixed for a long time. We create something that might be there for 50, 60 or 100 years, so we need to treat it with a great deal of respect.

**The Chairperson:**

It is about how those three elements are married together. There are the statements and the area plans to consider, and, obviously, the RDS must be conformed with, which is key. Your point about the politics of resistance was also crucial. All decisions had been foisted on the community, as opposed to there being community buy-in, and now we are going to change the whole process. That will take a long time.

**Professor Lloyd:**

Absolutely. Under the RPA proposals, the transfer of responsibility for development management to local authorities will be a huge ask, because we are making decisions that have to reflect the whole spectrum of community interests and what people want, and quite rightly so. To get there, however, I think that we need to prepare, invest and educate so that, rather than automatically resisting, people will come forward and say that they want to participate because

they want the best for their community. Anyone opening the papers on any day of the week would see that, significantly, we face two major issues: energy cost inflation and food price inflation. We need to rethink how we use land in Northern Ireland, because we could be growing biomass and improving our agricultural productivity. Therefore, land use is not just about building houses on the edge of settlements; it is about going back to fundamentals. Having read some of the stories about house price inflation and energy cost inflation, I can see, for example, fuel poverty among older people being a time bomb, not just in Northern Ireland, but across Europe. We have to be ahead of that game.

**The Chairperson:**

Mr Wilson was delighted with those comments.

**Mr B Wilson:**

That is Green Party policy.

**Mr McGlone:**

Thank you very much; it is good to see you again. You made an essential point, which has come up today already, about the read-across between various Departments in Northern Ireland. You articulated that point well your submission. You showed how the RDS and the sustainability proposals fit in, and I can see entirely where the thinking in the department that deals with Finance and Sustainable Growth in Scotland was coming from. I read and fully support that, especially in the economic climate that we are in at the moment. Those ideas are part of the big political discourse on how we move to the point of doing that. It is a very valuable point, and I suppose that it should be our mission statement. However, given our current climate, where we have silos in what could be the relevant Departments, whether we get there down the line is another question.

As I was reading your document last night, I was struck by a number of very interesting observations, and you articulated some of them already. You said:

“The hierarchy of developments is to be welcomed.”

For the benefit of those of us who have gone through the likes of the area plan process, how do you see the hierarchy of developments being different? In what way is it significantly different from the hierarchy that exists already, be it in dispersed rural communities or for land zoned for villages or towns? I would like your insights on that.

I raised this point with the witness who was here before you, and I see that you also dwelled on it quite significantly in your submission. One of the witnesses who was in earlier spoke about community, and the Chairperson also asked about that. What is “the community”, who do you consult with, and how do you consult with them? I pointed out that, on many occasions, those who represent and articulate the views of “the community” may be totally remote and divorced from that community. Therefore, we must consider how we arrive at the point of consulting fully and inclusively with the community and not just with people who are set up as a community group for a reason that is particular to that area but who are in no way representative of the entire community.

That brings me to simplified planning zones and enterprise zones, which I see you also referred to. Having listened to the gentleman who was in before you question the Department about simplified planning zones, I made the point that, to me, the last thing that they are is simplified. I may just be having a thick moment or something by not being able to get that, and I almost arrived at the point of being too embarrassed to ask him any more about it, because the more I asked, the less I understood. It is interesting to note that you said that reference to such planning zones is very worrying and that their long-term benefits are quite contestable. As I said to the previous gentlemen, we do not want to repeat the mistakes that were made elsewhere. Therefore, it would be very useful to me if you, in your professional capacity, could give me a bit of a handle on what a simplified planning zone is. Once you have done that, perhaps you could explain how the concept has not been so simple or beneficial in the other places where it has been brought in.

Finally, your submission points out that:

“The Planning Bill asserts that its proposals will be cost neutral to the planning system.”

You state that that cannot be the case, and you go on to talk about the requirement for further investment in planning and so forth. However, a raft of proposals has been brought in to significantly increase planning fees here. Therefore, the big concern in that is that we would arrive at the point at which planning fees become so exorbitant that they would inhibit the type of development and planning that we want. I am interested in hearing your views on that range of issues.

**Professor Lloyd:**

I will take those points in reverse order. Cost neutrality is an oxymoron. Even the term “cost” as used by government annoys me intensely, I have to say. We should be talking about “investment”. While studying economic history, I was always very affected by the concept of the so-called British disease in the 1950s, when Britain took a view that it would not invest in labour skills and training because it was a “cost”. In contradiction, Germany “invested” heavily. Consequently, in the 1960s and 1970s, British industry survived by poaching people who had been trained elsewhere. We see that in the football sector today. It is the same thing, and we do not get it right. That is because we have a cost fetish.

The process cannot be cost neutral. We will have to invest if we want to run an effective and efficient planning system that is engaging and nurturing the community and explaining and bringing it along so that we understand what we want for different places across Northern Ireland. You are right to say that planning fees could not cope with the downturn at the moment. Planning fees would probably seriously endanger any small developer who was trying to go forward. That means that we cannot go down the planning fee route.

That applies equally to developer contributions. I do not have a problem with it, if, at a point in time, there is a high-growth economy, full employment, no social problems and no environmental issues. However, as a general rule, it would not fit at all. Therefore, I think that we need to revisit that. It cannot be cost neutral; it must be an investment by the Assembly.

Simplified planning zones were introduced in the early 1980s in England and Wales, Scotland and Northern Ireland. They were tied up with this idea of enterprise zones and came out of the Local Government Planning and Land Act 1980. I must be careful in what I say, but it was very

much a reaction of the Conservative Government that was elected in 1979 in that they were trying to deal with areas where they were convinced that government intervention had clearly failed. Rather than have lots of public expenditure going in by way of many regulatory bodies and institutions, such as development agencies, they asked why they should not be able to create mini Hong Kongs. Therefore, the system was actually modelled on Hong Kong. However, enterprise zones, which came first, were very complicated. They involved certain tax reliefs and the simplification of planning. Effectively, regulatory planning was replaced by a zoning system. Other measures dealing with health and safety and anti-pollution measures and so forth were then introduced.

In some instances, enterprise zones worked quite well. The massive Singer sewing machine factory at Clydebank in Glasgow collapsed with the loss of 10,000 jobs. An enterprise zone was then created, and developers moved in and started to put other things in place. All that they did was to take a big space and create lots of little spaces for smaller firms to move into. It appears to have worked. However, the jury is still out on enterprise zones overall. They have all gone now. Belfast had one that, I believe, was made up of two sites. They did not kick-start the local property market to any great extent. They were not sustainable, and they did not necessarily create net employment growth — there was a lot of shuffling in to get tax relief.

Simplified planning zones were the cheap follow-on, which the Government thought worked. Again, the jury is out on that. I am suspicious of having a provision in the Bill for simplified planning zones and enterprise zones. In fact, the reference to enterprise zones came out of the blue; I did not see that one coming at all.

As you rightly say, simplified planning zones are quite complicated. They require particular skills to draw up, because land has to be zoned in anticipation of what people think they want. That is a big call. It also opens up the potential for legal challenge. The introduction of enterprise zones was very much part of a neo-liberal-inspired planning strategy in the early 1980s, and, frankly, I do not think that it would be appropriate for Northern Ireland to go down that route.

The one thing that stunned me when I was preparing for and reading the Planning Bill over



Christmas was that I came across the call for evidence from the Northern Ireland Affairs Committee asking whether Northern Ireland as a whole should be made into an enterprise zone. The evidence on that had to be submitted by last Friday. If that idea goes ahead, we might as well just tear up the Planning Bill, and, not only that, but I would see that as an absolute outrage for the devolved relationship. It is not going to work.

That debate is taking place because of the issues on corporation tax, and that is fair enough. However, if we are to deal with corporation tax, let us deal with it as an economic mechanism and not as a planning mechanism. To be frank, if Northern Ireland as a whole were made into an enterprise zone, I would not want to go there. It would not work for lots and lots of reasons. I would have grave concerns about that. I also think that it would also knock back completely what Northern Ireland has been doing on this reform since 2002.

Members should be aware that sociologists say that there are 97 definitions of “community”. The trouble is that the concept of “community” is very wobbly. You are right to ask what a community is. We know that there are communities of place, communities of interest and communities of intent. The planning system has to be robust enough to be able to allow communities to find their own voice and have the confidence to come forward and not feel that they are being put upon. Secondly, they should have the confidence to be able to come up with their own ideas.

To be frank, all the solutions to Northern Ireland’s problems are to be found in communities. That is why planning reform is highly political — with a small “p”. It is about nurturing and allowing people to come out with ideas. Decisions will still have to be made, because there will not always be a consensus. However, we need to be able to talk openly.

I am reminded of work that is being done on opposition to wind farms. There is such a thing as the so-called 80:20 rule. You will probably enjoy this, Mr Wilson, but whenever a proposal for a wind farm comes up, 80% of the local population is against it, with 20% in favour of it. If the process goes through with due diligence, and once the wind farm is built, those percentages reverse, with only 20% against it and 80% for it. That tells me that there is something about planning that means that it is not simply a bit of paper or a law; it is the way that we use it. The

key politicisation that involves working with communities is very important.

We must have an ongoing debate. We need leaders, champions and good headlines. However, trade-offs are involved. I will probably upset Mr Wilson now, but there will be times when the environment will take a hit. Society may say that that is for social and economic reasons and everyone understands that, but we are still a long way off that. That is not a criticism of Northern Ireland; it is a criticism of many mainland European planning systems.

We must not go down the road of encouraging the Nimby debate. As soon as we get into that polarised debate, we have lost, because people go deaf.

**Mr McGlone:**

That is great. Thank you very much indeed. That was very interesting.

**The Chairperson:**

I hope that all the members were listening to that. Professor Lloyd, thank you very much. I have always enjoyed your appearances before the Committee. Thank you.