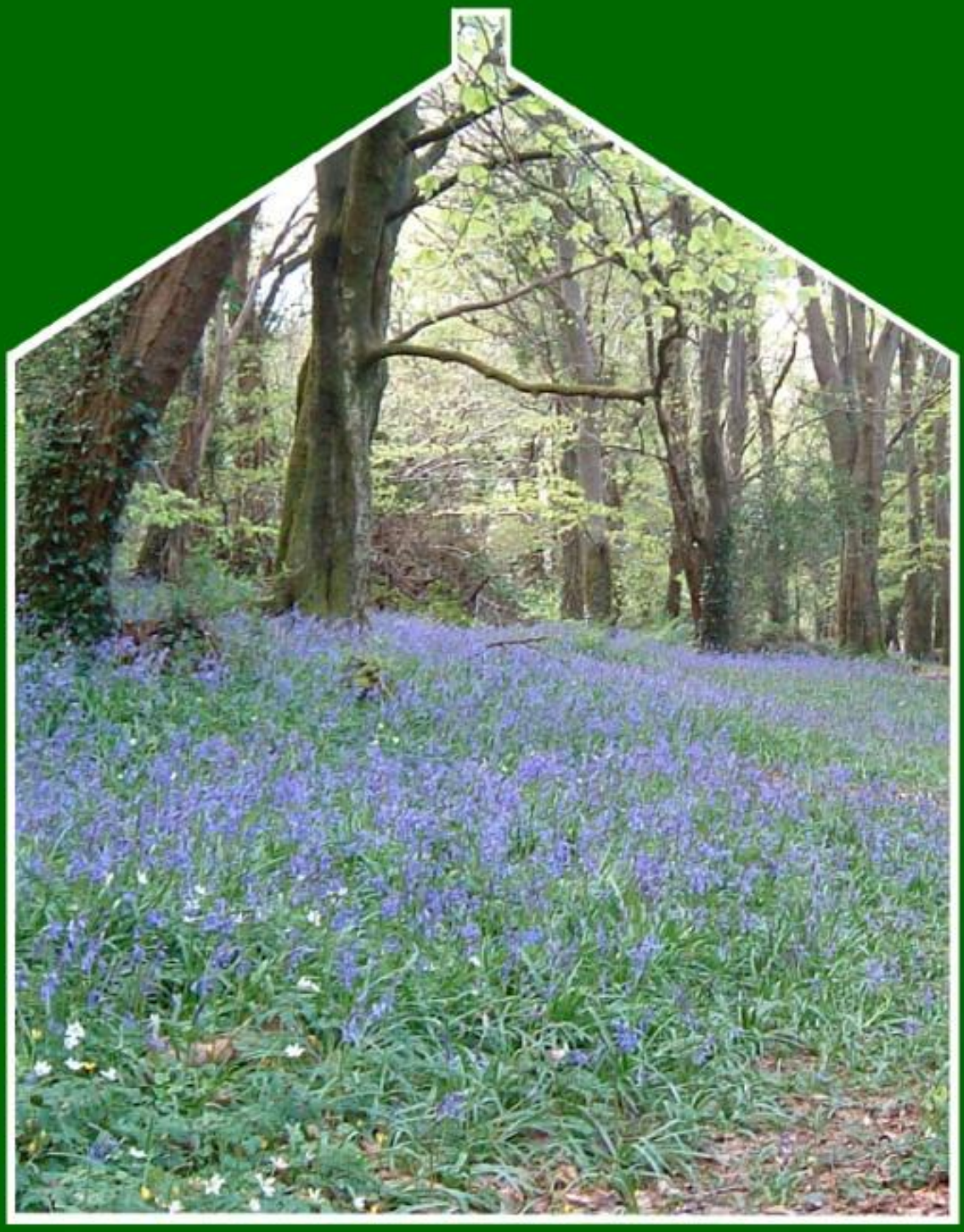
friends of the earth
Northern Ireland



Northern Ireland Planning Bill 2013

A consultation response

March 2013

Introduction

A good planning system gives an economy consistency, fairness and direction. The amendments to the Planning Act (2011), and the Planning Order (1991) will result in both a weakening and slowing down of the planning system by encouraging more speculative applications, increasing the likelihood of legal challenges, contributing to confusion in the interpretation of planning policy and creating inconsistency in decision making.

It is unprecedented for a modern planning system to elevate economic interests above all other valid land-use planning considerations. The role of the planning system is to balance all valid and material interests on a case by case basis in the interests of sustainable development.

Friends of the Earth is opposed to the 2013 Planning Bill, its underlying assumptions and the damage it will do to an already weakened planning system. The proposed Bill will have far reaching and adverse implications for communities, the business sector and the future of Northern Ireland's environment.

This briefing outlines our objections.

Summary of objections

A detailed critique of the Planning Bill can be found in Appendix 1. In summary our concerns are that:

1. Clause 2 – In the *Pyx Granite vs Minister Housing and Local Government (1958)* case Lord Denning confirmed the legal principle that planning law should only apply to the use and development of land. Clause 2 challenges this long held principle by suggesting broader economic issues need to be taken into account;
2. Sustainable Development already includes economic considerations (Clause 2). Including an additional economic considerations clause will in practice give greater weight to the economy over the social and environmental elements of sustainable development;
3. Clause 6 renders the Bill unworkable. Every developer is likely to claim an economic advantage so this additional consideration is likely to lead to more speculative applications, which will slow down an already overburdened system.
4. Developers will be burdened with the requirement to produce an economic assessment, while objectors will have to establish an economic disadvantage;
5. Advantage and disadvantage considerations create complexity and increase grounds for objections (Clause 6). The Northern Ireland planning system is already highly legalised, and it is likely these clauses will lead to more developer led appeals and Judicial Reviews, further slowing down the system;
6. Economic considerations that go beyond land use, such as job creation or profitability, cannot be adequately assessed or enforced (Clauses 2 and 6). Planning law has no mechanism for imposing economic conditions, such as profitability or job creation, as part of planning consent, and no way of applying sanctions if economic claims do not materialise. Developers can make grandiose claims to support an application, but these claims cannot be monitored or enforced;

7. Planners have no expertise in assessing detailed economic assessments. They are not economists, they are land use specialists who balance and mediate competing interests to achieve sustainable development;
8. The proposed duty to promote economic development could be inconsistent with the EU Environmental Impact Assessment Directive (Clause 2). If planners endeavor to comply with the process of the EIA they will very likely be challenged if they reject a planning application or impose conditions that might reduce a claimed economic advantage.
9. Clause 10 allows for the Department to appoint Commissioners to conduct appeals normally carried out by the PAC. It is debatable that such commissioners could be considered independent. The independence of appointees could be open to challenge under human rights law;
10. Fixed Penalty Notices are a useful deterrent, but they are not a remedy to breaches of planning conditions (Clause 20). The Bill suggests that no further action will be taken if a Fixed Penalty Notice is paid. Enforcement notices can be reissued but this is an extra burden on the system contrary to the stated objective of simplifying and speeding up planning. It must be made clear that fines should not be applied in lieu of remedial action. Breaches of planning conditions must be rectified;
11. The requirement for a pre-application community consultation is welcome (Clause 5). All such consultations must be adequately resourced if they are to be effective and gain buy-in for communities. Front loading should not be viewed as an alternative to full access to justice. A Third Party Right of Appeal should be introduced for circumstances in which the system fails;
12. The consultation is being managed through the Environment Committee. The Planning Bill has potentially far-reaching and game changing implications for the planning system and it is a dangerous precedent for the Government to allow 'the difficult and controversial bits' of a Bill through the back door. It should be afforded the rigours of a full public consultation. The Committee's role is to scrutinise legislation coming from the house. It is not to be used as a proxy to manage consultation on a controversial new provision, a version of which has already been challenged in the courts, and was rejected by 75 percent of people at consultation.
13. The Bill is a missed opportunity to introduce significant reforms such as third party rights of appeal and commence the plan-led system that would create a better planning system for everyone;
14. Orthodox economic practice measures success in mathematical terms through the contribution to GDP, financial projections, or job creation figures. GDP measures all economic activity, even if it is insurance claims resulting from bad weather events due to climate change, open cast mining, deforestation, or pollution clean-up. The planning system has no methodology for assessing economic success criteria. Moreover, there is no balancing of these mathematical projections with similar criteria on well-being, ecological services, sustainable development or economic disadvantages.

Unintended consequences

It is our assertion that the clauses on economic considerations could have serious unintended consequences. The ambiguity of the clauses, coupled with political pressure to pursue economic develop at any cost, could result in weak planning approvals that could not otherwise be justified in planning terms..

In this section we present several hypothetical planning applications and explore some unintended consequences.

1. Inflated jobs claims

A developer submits a planning application for a light industrial facility on the site of a former retail unit. The application states the industrial process will be labour intensive, and will therefore create a significant number of skilled,

long-term jobs. The process necessarily involves some potentially serious environmental impacts, such as noise, traffic volumes, and discharges to waterways, but the job claims are considered to outweigh the negative impacts so the application is approved.

After receiving planning consent, the developer decides to invest in considerable automation of the process, so the actual number of jobs created is a small fraction of those stated in the economic appraisal. The original job creation claims cannot be enforced as a planning condition.

2. **Economic environment changes**

Similar to the previous example, a developer submits an application for a small manufacturing unit on a rural site. The economic assessment included with the application states the facility will employ 50 people. The application is approved on the grounds of a significant economic advantage to the area.

However, after receiving planning consent the economic environment changes significantly and the developer reluctantly decides to outsource the manufacturing process to China, and utilises the new facility as a distribution depot employing 10 people. The new depot will involve significant disruption of the once quiet rural community in the form of increased traffic levels, noise and light pollution, but with little or no economic advantage for the community. Local job creation cannot be made a condition for planning consent.

3. **Greater advantage in selling the land**

A developer submits an application for a commercial facility that will employ a significant number of people. Approval is granted based on the economic assessment.

After receiving planning consent the developer realises the value of the land has increased greatly and so decides to sell it. The revenue raised from the sale of the land is used to finance a development overseas.

In this case, the original applicant could argue an economic advantage to planning consent on the grounds that receiving consent would increase the value of the land. It is a perversion of the planning regime that merely receiving consent is itself an economic advantage, regardless of any advantage the proposed development may or may not have.

4. **Burden to developers and objectors**

A farmer submits and application to build some farm buildings in order to modernise and expand his farm. A neighbour, a business man from Belfast who owns a cottage for hire adjacent to the farm, objects on the grounds that the new buildings will be unsightly and so will damage his business, and devalue his land, thereby inflicting an economic disadvantage, which now has to be taken into account.

Both the farmer and the objector will have to provide an economic appraisal, at their own expense. Planners will have to assess both economic cases, slowing down the decision making process, despite having no expertise in economics. The farmer will have an additional ground for appeal if the application is rejected, and the objector may have additional grounds for Judicial Review if the application is approved.

Unintended absurdities

In this section we offer some hypothetical planning applications that demonstrate the absurdity of the proposed statutory duty on economic considerations. None of these hypothetical proposals are beyond the realm of possibility, and are consistent with a robust application of the clauses in the Planning Bill 2013.

1. **The Cathedral**

A consortium submits an application to demolish St. Anne’s Cathedral and build a high end shopping complex with prestige anchor

tenant, shops, cafes, restaurants, bars, and entertainment complex. It would be called 'The Cathedral', both as a homage its location on the former site of St. Anne's, and to reflect its role as a driver for an economic renaissance of the Cathedral Quarter.

St. Anne's Cathedral contributes little to the economy and is not a major employer' although it is recognised that it has some heritage value, but this is difficult to quantify. However, the developers of 'The Cathedral' have a precise projection of jobs it would create and figures that suggest it would serve as a catalyst for the redevelopment of the Cathedral Quarter. The demolition and construction of such a major structure could take up to two years to complete, so the project would be a major boon for the construction industry. Once completed, the complex would be a major long-term employer.

2. **Historic teas**

A local entrepreneur submits an application to demolish Carson's Statue and erect a kiosk for selling teas, coffees, and light refreshments. Stormont estate is a haven for people walking their dog, jogging, or out for a stroll with their family. After their exercise they may want a quick cup of tea and Danish before heading back down the mile to their car. As "economic advantage" is now a key planning criteria, the Department of the Environment feels, on balance, it should grant it permission.

This would be one of a chain of facilities. Other potential sites include:

- The space currently occupied by the Republican plot in Milltown Cemetery. Visitors to the cemetery, for funerals or Cemetery Sunday would appreciate a cup of tea on a cold day;
- Bishop's Gate, L/Derry. The historic walls attract many visitors who are likely to want a warm cup of tea as they explore the site on a typical windy day;
- The summit of Cave Hill, on the site frequented by the United Irishmen. Cave Hill is popular with walkers, mountain bikers, and families. After trekking to the top, visitors would enjoy some light refreshments while they enjoy the views over the city.

3. **Funfair in Botanic Gardens**

A well-established funfair company submits an application to build a funfair in Botanic Gardens. The development would involve extensive landscaping, the removal of many mature trees and the demolition of existing buildings. Included in the scheme are rides, a bar, and a café.

Botanic Gardens currently generates little money and could be a financial burden on Belfast City Council. The development would create a significant number of seasonal jobs, in addition to year round jobs in the bar and café.

What the Bill doesn't say

No evidence has been presented that there is a problem that these offending economic amendments are trying to solve. On the other hand our research[1] has revealed evidence of a crisis of confidence in the planning system

Furthermore, the three pillars on which planning system is based (development plans, enforcement and development management) have been subject to intense criticism over many years. No new development plan has been started for 8 years, the enforcement system has been described in recent Assembly debates by prominent politicians as a farce, there is a general acceptance of retrospective applications for major developments, such as quarries, and we already have the most permissive planning system in the UK.

Recent approvals such as the demolition of the Athletic Stores listed building in Belfast, the Viking village development on the shores of Strangford Lough and the approval of the Runkerry resort in the protected landscape around the Giants Causeway demonstrate a

[1] http://www.foe.co.uk/resource/reports/public_and_stakeholder_opi.pdf

laissez faire approach to planning which is unprecedented in healthy and advanced economies.

It is remarkable that the Bill, in the light of the evidence, does not address these real problems by commencing the introduction of the plan-led system, developer contributions and third party rights of appeal.

Recommendations

Clause 2 should be reworded to include a definition of sustainable development, and the sub-clause economic development should be removed. The purpose of planning should be to achieve sustainable development as defined by the World Commission on Environment and Development in 1987: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

The UK Sustainable Development Strategy 2005 sets out five guiding principles:

- Living within environmental limits
- Ensuring a strong, healthy and just society
- Achieving a sustainable economy
- Promoting good governance
- Using sound science responsibly

These principles should be set out in Planning Bill in relation to the purpose of planning.

Friends of the Earth recommends the following overarching policy on sustainable development be included in Clause 2:

“It shall be the principal objective of local and neighbourhood plans to ensure sustainable patterns of development which improve the quality of life of all people, while respecting environmental limits and the ability of future generations to enjoy a similar quality of life.”

In order to uphold this objective, all land use policies and decisions must enshrine the principles of:

- **environmental justice**: putting people at the heart of decision making, reducing social inequality by upholding environmental justice in the outcomes of decisions;
- **inter-generational equity**: ensuring current development does not prevent future generations from meeting their own needs;
- **environmental limits**: ensuring that resources are not irrevocably exhausted or the environment irreversibly damaged. This means, for example, supporting climate mitigation, protecting and enhancing biodiversity, reducing harmful emissions, and promoting the sustainable use of natural resources (including those outside Northern Ireland);
- **resource conservation**: ensuring that planning decisions assist in the prudent and sustainable use of finite natural resources (including resources sourced outside Northern Ireland);
- **the precautionary approach**: the precautionary principle holds that where the environmental impacts of certain activities or developments are not known, the proposed development should not be carried out, or extreme caution should be exercised in its undertaking;
- **the polluter pays**: ensuring that that those who produce damaging pollution meet the full environmental, social and economic costs;
- **the proximity principle**; seeking to resolve problems in the present and locally, rather than passing them on to other communities globally or future generations;
- **public participation**; ensuring that there are meaningful opportunities for people to engage in the planning decision-making process.

In addition to these principles, the sequential test is essential in order to achieve sustainable development and travel patterns, and to protect and conserve areas of recognised environmental and amenity importance.

Friends of the Earth recommends the following policy be included:

"Plans and planning decision making should apply the sequential test to ensure the most sustainable use of land."

The sequential test is as follows:

1. the re-use of previously developed land and buildings (brownfield sites) within urban areas;
2. other previously developed land well connected to public transport links;
3. new locations within urban areas subject to the need to protect and conserve areas of recognised environmental and amenity interests;
4. on other sites and locations which reduce the need to travel, and are sustainably located.

Clause 5 should include the introduction of a Third Party Right of Appeal.

Clause 6 should be removed from the Bill.

Clause 10 should be amended to allow the Planning Appeals Commission to appoint temporary commissioners as needed.

Clause 20 should be clarified to make it clear that Fix Penalty Notices are not in lieu of enforcement action, and that further action will be taken if breaches are not remedied.

Conclusion – worse than PPS24

The Planning Bill 2013 will lead to an unnecessary burden to planners, developers, and objectors. It will result in more legal challenges as the ambiguities are sorted out. Economic considerations could trump other considerations, leading to a proliferation of speculative planning applications. The clauses will be unworkable and unenforceable. The appeals process is likely to lose its independence, at least in the eyes of the public.

The statutory basis to these new economic considerations will deliver economic supremacy in a way that is more far reaching than draft PPS24 which was previously rejected by Minister Attwood.

PPS24 was only a *policy* but these clauses provide a new *statutory* duty; dPPS24 related to major applications where economic considerations were 'significant', where these clauses relate to all applications; dPPS24 only related to development management (that is the processing of planning applications) whereas these clauses relate to all decisions of the Planning Appeals Commission, all future development plans, and all future planning policies; dPPS24 gave 'substantial weight' whereas these clauses creates an additional duty to promote economic development even though economic considerations are already embedded within sustainable development

The clauses mark a terminal shift away from what the debate should be about – the difference between good planning and bad planning. They polarise the debate from having a quality planning system and shift the focus in the direction of creating an adversarial, mechanistic and legalistic theatre around the planning system. The 'jobs versus environment' debate was always a false argument but these clauses now give this false argument a statutory basis. Planning should be about resolving disputes in the public interest but these clauses make them worse.

In short, the Planning Bill is likely to result in the disintegration of the planning system.

Appendix 1

10 REASONS WHY THE NORTHERN IRELAND PLANNING BILL 2013 IS UNWORKABLE

Prof. Geraint Ellis
School of Planning, Architecture and Civil Engineering
Queen's University
Belfast
Tel: 02890974370
e-mail: g.ellis@qub.ac.uk

In January 2013 the Department of the Environment presented the 2013 Planning Bill to the Assembly. The main purposes of the Bill are to further legislatively prepare the planning system for a transfer of major planning responsibilities to local authorities in 2015 and to continue the trajectory of planning reform. In this context, many of its provisions are sensible and reflect legislative developments in other parts of the UK.

- Clause 2: Amendment of the general functions of the Department of the Environment and the Planning Appeals Commission, to include "promoting economic development" in addition to the existing duties of "furthering sustainable development" and "promoting or improving well-being";
- Clause 6: Amending the issues to be taken into account (i.e. the "material considerations") when determining planning applications by ensuring that this should now include the "economic advantages or disadvantages likely to result from the granting of or, as the case may be, the refusal of planning permission";
- Clause 10: Public inquiries: major planning applications allows the appointment of people other than the Planning Appeals Commission (PAC) to oversee planning inquiries;
- Clause 20: Fixed Penalties, allowing the Department of the Environment to issue a fixed penalty notice for the offences of failing to comply with an enforcement action.

The last two clauses are inappropriate because they threaten to further weaken the credibility of the Northern Ireland planning system, which has already been seen to be very low amongst the public[2].

Clause 10 is simply not needed – the independence, and the perception of independence, of those overseeing public inquiries plays a paramount role in maintaining the credibility of the planning system and any direct appointments by the DoE would inevitably cast doubt on this, given that the PAC has been established for precisely this role. Indeed, this clause is not required – a simple solution would be to facilitate the PAC to appoint temporary Commissioners if they did not have the in house capacity to oversee an inquiry at any particular time.

Clause 20 also threatens to undermine credibility by limiting the opportunities for enforcement action, already seen as a weak part of the Northern Ireland planning system. While on the one hand Fixed Penalty Notice promises to allow swift action against those who fail to comply with enforcement, the Bill also suggests that they then be immune from any further prosecution once a fine has been paid. The danger with this provision is that it could be used as a shelter from prosecution by those guilty of abusing the planning system. While a Fixed Penalty Notice may be a useful initiative, this should not be accompanied by immunity from prosecution.

However, it is the first two clauses mentioned above (Clauses 2 and 6) which are the most dangerous and inadequately constructed parts of the Bill. These potentially introduce very fundamental changes to the Northern Ireland planning system.

The dominant aim of planning reform in Northern Ireland has been to streamline and speed up the process for making planning decisions. Members of the Northern Ireland

---

[2] http://www.foe.co.uk/resource/reports/public_and_stakeholder_opi.pdf

Executive also regularly state that they wish to see the planning system do more to assist economic recovery. Although there appears to be a number of major misconceptions of how the planning system relates to economic growth (which will not be discussed here), if we assume that these clauses have been introduced with the aim of supporting such objectives, it is against these that they should be evaluated. However, these new clauses are actually *counter*productive to such objectives and have the potential to build in a number of very significant problems for the Northern Ireland planning system, including many enhanced, yet unnecessary, opportunities for legal challenge.

There are at least ten reasons why these clauses are unworkable:

1. The Bill undermines the key principle of planning that it should only consider issues related to the use and development of land[3]. Clause 6 seeks to expand the issues that planners need to take into account and as consequence, the Northern Ireland planning system will no longer be able to rely on the stability of 40 years of case law that have determined the boundaries of planning considerations. As a result of this, the materiality of certain issues will have to be redefined through a series of legal challenges to establish case law. This is likely to introduce a great deal of instability and delay into the Northern Ireland planning system – we infer that this is not the intent of the Department and its legislators;
2. Clause 6 appears to be attempting to use the planning system for a purpose for which it is not legally designed to do. Because planning is strictly about the use and development of land, to try and use it for a purpose that is not strictly related to this – such as reviving the broader regional economy, could be judged as being ultra vires[4] and of course, will provide additional opportunities for challenges in the courts;
3. The Bill also appears to introduce the potentially dangerous precedent of having to routinely consider personal circumstances when deciding planning decisions. This also arises from Clause 6 which suggests that economic dis/advantages need to be taken into account. An economic advantage cannot belong to a piece of land and must belong to a real person or organisation as only they can realise the fruits of an advantage (or suffer the consequences of a disadvantage). Indeed any economic dis/advantage will vary according to whom it belongs – something that may be inconsequential to a multi-national could be a critical economic advantage to a small local firm, thus raising the necessity of considering the personal circumstances of the applicant or owner when deciding a planning application. This is again unprecedented and could also prove to be a fertile area for legal challenge;
4. A further consequence of this is it that it provides opportunities for objections on "non-planning" grounds. Clause 6 broadens the issues that planners have to take into account when deciding planning applications and this will be open to exploitation from both applicants *and* objectors. In particular Clause 6 notes that the planners should take into account economic *dis*advantage as a result of a planning decision – suggesting that any person who thinks they may be disadvantaged as a result of a decision, for example a developer of a competing scheme, an existing business that may be threatened by a proposed activity (such as retail or manufacturing) and even someone suffering a loss of property value, may find some currently unavailable traction in making a valid objection to a planning application.
5. At present planners have additional flexibility to award planning permission because they can secure safeguards for the public interest through imposing planning conditions on a prospective development - these must be related to the use and development of land. As explained

[3]For example, Stringer -v- Minister of Housing and Local Government [1971] 1 All ER 65; Westminster City Council -v- Great Portland Estates plc [1985] AC 6610

[4] Lord Denning established a long standing principle that the planning system could not be used for what he described as "ulterior objects" in an ulterior object, Pyx Granite C. Ltd. v. Minister of Housing and. Local Government [1958] 1 Q.B. 554, 572

above, Clause 6 suggests that planners should now take economic dis/advantages into account – yet for the reasons explained above, this may well include issues that cannot be enforced through the planning system. For example, if it is claimed that a development will result in 100 jobs, this could become a key criteria for awarding planning permission. However, there is no legal mechanism to ensure the claimed benefits actually occur as such issues cannot be secured through planning conditions because they lie beyond the scope of the planning system. The consequence of this is that developers are likely to exaggerate economic development impacts, knowing they cannot be held to account on their claims. This provides a very shaky basis for land use regulation;

6. The Bill introduces a circular argument that undermines effective regulation. Any planning approval inevitably results in an 'unearned' increase to the value of a property. If a planner has to consider the economic dis/advantages of refusing or awarding planning permission, this will always result in an argument *for* planning permission as otherwise the increase in property value would be lost. This may even be the case if the development would be judged otherwise unsuitable on normal planning grounds. This could therefore create *a fait accompli* for approving planning applications, thus fundamentally eroding the basis of effective planning regulation and actually challenging the very reasons for having a planning system;
7. This legislation introduces the ambiguity over the concept of economic development into the consideration of planning applications. It does not define what it means by economic development and indeed, there is no single definition that is accepted by economists, thus reducing the clarity of the existing planning legislation. Economic development is generally *not* considered to be as simple as promoting growth through job creation, as it implies a longer term perspective which would therefore have to take into account issues such as job displacement, impact on the balance of payments, multiplier effects and the evaluation of alternative development options. It also implies that indirect impacts on economic development need to be considered, such as the potential cost to public services, health impacts or the economic consequences of traditional planning considerations, such as local increases in traffic congestion. This clause will need extensive and detailed guidance to become operable;
8. Following from the above, the Bill will increase the paperwork for planning applicants and the bureaucracy of making decisions. Far from streamlining the planning process, in adding economic advantage/disadvantage as a material consideration (Clause 6), it will require planning applicants to provide additional information in order to be able to determine a planning application. This will also require further training and guidance for planners and potentially the employment of specialist economists in the Department of the Environment. It is not clear what sort of economic assessment will be required, although across Government the most commonly accepted is a *Green Book Assessment*[5]and it is difficult to see how anything less than this could provide the complete picture of the economic impact of a development. The Green Book covers issues such as competition impacts, distributional impacts, small firm impacts, additionally, consequences for labour supply and how to adjust for risk and optimism bias. A full economic assessment also requires the evaluation of non-market impacts such as those arising from pollution or any time-savings arising from infrastructure investment or improvements in accessibility. A *Green Book Assessment* is a sophisticated process requiring expert input and potentially original research for every development – this clearly is not in the spirit of other measures taken to speed up the planning system;
9. The Bill introduces a lack of clarity in the role of the DoE and PAC. Under the existing 2011 Act these planning authorities have the duty to deliver their planning responsibilities in order to promote sustainable development and well-being. The concept of sustainable development aims to secure a long-term balance

[5] http://www.hm-treasury.gov.uk/data_greenbook_index.htm

between social, environment and economic issues. The fact that economic development becomes *an additional and separate* consideration means that planners will have to, first balance economic considerations as part of their duty to deliver sustainable development, *and then* balance sustainable development with economic development. This appears to be an absurd and overly complex reasoning, providing unnecessary complexity to land use regulation;

10. Finally, the Bill does not appear to fix any current problem with the planning system, but introduces many more difficulties. At present, planning approval rates in Northern Ireland are the highest in the UK and there is no robust evidence that planning regulation itself is a barrier to economic development. These clauses appear to offer a solution to a problem that actually does not exist, while at the same time introducing many opportunities for snarling the planning system into an extended process of legal challenges and instability. These factors more than anything will deter potential investment.

This discussion not only highlights the many legal and procedural problems that may be encountered should this legislation be enacted, but it also highlights the fundamental nature of the proposed changes. It is therefore surprising to see that the Department has not highlighted the significance of such changes – for example it does not propose the normal process of public consultation that would be expected to accompany changes with such far reaching implications. No Equality Impact Assessment undertaken on these provisions and perhaps most remarkably given the comments above, the Bill's "Partial Regulatory Assessment" overlooks the costs of the new provisions. These could potentially include:

- Training of planning officers in how to evaluate economic development;
- Costs of changing planning application forms to include the required information;
- Costs to developers of including additional information with their planning applications to address the new definition of material considerations, particularly if the economic development criteria is to be based on a Green Book assessment which includes 118 pages of guidance, plus another 14 documents of supplementary guidance[6] amounting to a substantial increase in regulatory guidance to be included in a planning application;
- Potential employment of economists by the Department of the Environment;
- As noted above, because these clauses change some of the fundamental principles underlying the determination of planning applications and introduce a range of ambiguities into planning regulation, it is highly likely that its interpretation will be tested in the courts. This will inevitability lead to a range of costs, including delay to any planning decision subject to challenge and legal costs incurred by the Department.

Clauses 2 and 6 therefore raise a range of deeply significant issues for the Northern Ireland planning system, introducing substantial ambiguities, providing the potential for delay and unintended opportunities for legal challenge and an increase in the bureaucracy associated with planning control. These are clearly not the reasons why the Planning Bill has been introduced. If we wish to reform the NI planning system into one which is effective, democratic and efficient, these proposals should be reconsidered and more time taken to assess what the planning system really needs. Inappropriate decisions hastily made now will potentially result in years of litigation and pressure on the public purse that every player in the planning and development arena can do without.

[6] http://www.hm-treasury.gov.uk/data_greenbook_supguidance.htm

For more than 40 years we've seen that the well-being of people and planet go hand in hand - and it's been the inspiration for our campaigns. Together with thousands of people like you we've secured safer food and water, defended wildlife and natural habitats, championed the move to clean energy and acted to keep our climate stable. Be a Friend of the Earth - see things differently.

Friends of the Earth Ltd 2013, company number 1012357 registered office:
26-28 Underwood Street, London N1 7JQ
Tel: 020 7490 1555
Fax: 020 7490 0881
Email: info@foe.co.uk
Website: www.foe.co.uk

Friends of the Earth Northern Ireland
7 Donegall Street Place
Belfast BT1 2FN
Tel: 028 9023 3488
Fax: 028 9024 7556
Email: foe-ni@foe.co.uk
Website: www.foe.co.uk/ni

friends of the earth
Northern Ireland
see things differently

Front cover image courtesy of Prehen Conservation Society