

# Landscape Institute Northern Ireland

## **Planning Bill 2013**

Consultation by NI Assembly Committee for the Environment.

Response of the **Landscape Institute Northern Ireland branch (LINI)**.

15 March 2013

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The Landscape Institute is the chartered institute in the United Kingdom for landscape architects, incorporating designers, managers, and scientists, concerned with conserving and enhancing the environment. The Landscape Institute promotes the highest standards in the practice of landscape planning, design, management and research, and represents members in private practice, at all levels of government and government agencies, in academic institutions and in commercial organisations.

The Landscape Institute is an educational charity and chartered body whose purpose is to protect, conserve and enhance the natural and built environment for the benefit of the public. It champions well-designed and well-managed urban and rural landscape. The Landscape Institute's accreditation and professional procedures ensure that the designers, managers and scientists who make up the landscape architecture profession work to the highest standards. Its advocacy and education programmes promote the landscape architecture profession as one which focuses on design, environment and community in order to inspire great places where people want to live, work and visit. The Landscape Institute is committed to the principles of sustainable development by improving the quality of design of urban and rural environments and to the protection and enhancement of our physical and natural environments.

The Landscape Institute Northern Ireland branch (LINI) represents the professional membership within Northern Ireland and is particularly concerned with design, management and planning for the protection, conservation and enhancement of the natural and built environment of Northern Ireland.

LINI welcomes the opportunity to consider the contents of the NI Planning Bill 2013 and submit the following response to the Committee for the Environment for consideration.

Note: As members of Northern Ireland Environment Link (NIEL) Landscape Institute Northern Ireland (LINI) also endorse the response submitted by NIEL

Whilst LINI consider the overarching purpose of this Bill well intentioned and accept the Department have considered it necessary to revise the planning legislation in advance of planning function being transferred to the new Local Authorities in 2015; LINI have identified a number of issues in this Bill which may cause unintended consequences.

Comment for specific clauses are outlined below – however please note were no comment has been assigned, LINI accept the proposals relating to that clause.

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## Clause 2 (General function of the Department and the planning appeals commission)

Professional experience has shown that an undefined word or ambiguous statement in 'Law' and specifically in this case 'Planning Law', can result in multiple interpretation and indeed misinterpretation.

The result of a well intended proposals in this context can often have far reaching and unforeseen negative consequences.

LINI believe that it is singularly important that all proposals and terminology set out in this Planning Bill are clearly defined to avoid or at least minimise future misinterpretation and legal challenge.

LINI consider that some of the terminology in this Bill requires clearer definition, includes the following:

- **'Sustainable Development'** - Whilst Article 10A of the 1991 Order makes reference to Sustainable Development within a Development Plan context; LINI maintain that the planning legislation requires a universally accepted definition and meaning for this term.

Formation of this definition should be a priority, and incorporated through this Bill into the legislation to avoid doubt post transfer of planning function. 'Sustainable Development' should form the foundation of decision making in our planning system, and clarity of this term would negate any need to include specific clauses which single out particular issues that currently form part of the decision making process, for example, inclusion of a clause for the 'promotion of economic development'.

The economy is already an integral part of 'Sustainable Development', and so repeating it explicitly essentially increases its weight in any assessment of considerations (the need for this addition in this Bill suggests ambiguity about the term 'Sustainable Development').

- **Economic Development** - Whilst a prosperous economy is obviously desirable, LINI do not consider it necessary to set out 'promotion of economic development' in the legislation in a manner which could be misinterpreted by various authorities as determinative.

LINI consider that our Planning Departments are not currently equipped to define and establish 'economic need', in relation to proposed development applications. Therefore in order to reach conclusions on economic benefits as a material consideration (which this clause will create), authorities will rely on assessments submitted by developers agents.

These submission will inevitably be convincing (and bias) in favour of the development they are proposing / promoting.

However it is unlikely that the authorities will be furnished with balanced counter economic arguments or data when reaching decision on economic matters.

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Put simply developers will always state that there is 'need' and will always argue that there will be job creation and value to the economy.

This has always been the case – however raising this to a 'Material consideration' places a greater burden on the authorities to offer counter economic arguments.

- **'Furthering' and 'Promoting'** Clause 2 sets out to 'Furthering' Sustainable development whilst 'Promoting' Economic development – it is considered that some clarification to the variation in emphasise of these terms is required.
- **'Well-Being'** - The concept of promoting well-being' is welcome and again clearly well intentioned, however this needs further clarification – what are the criteria for 'well-being' and who decides how or whether these are met?
- **'Good Design'** - The LINI welcome this inclusion however feel that further clarification of this definition is required. Design can be considered subjective and it can be interpreted in many ways - Is the intention that certain applications be referred to independent design panels for review?

## **Clause 6 (Determination of planning applications)**

LINI are concerned that this clause may reinforces potential for legal challenge and conversely slow determination of applications.

It does not seem necessary to add this clause which like clause 2 would be dealt with by clearer definition of 'Sustainable Development'

It is clear how a development application may be submitted with a strong business case for job creation and high estimation of turnover etc, making arguments for economic advantage.

However it is not clear how a counter economic argument could be formulated to protect for example highly valuable tourism market through perceived degradation of landscape character.

Further an individual development application may only presents a minor negative impact, however LINI are concerned that cumulative impact of multiple individual applications are not being fully considered with the gradual continued erosion of landscape and urban character.

## **Clause 9 (Aftercare conditions for ecological purposes on grant of mineral planning permission)**

LINI welcomes this clause, however would highlight that clarification be given within the Article to the meaning of ecological.

## **Clause 19 (Tree preservation orders: dying trees)**

LINI welcomes removal of this term.

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## **Concluding comments**

LINI are disappointed that the contents of this Planning Bill did not follow the normal process of public consultation.

Inclusion of a universally accepted definition of 'Sustainable Development' would negate the need for specific clause relating to the 'Economy'

LINI accept the need for a more efficient planning system however stress that the system must not become imbalanced and prejudicial.

LINI believe that clauses 2 and 6 undermine this overarching goal and will result in over-complication and opportunity for legal challenge.

The Landscape Institute Northern Ireland branch would like to thank the Committee for the Environment for the opportunity to contribute to the consultation process.

For any queries and further discussion relating to this response, and for future consultations, please contact:

The Chairman,

### **Landscape Institute Northern Ireland Branch**

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