Planning Bill

Clause by Clause Summary of Responses – Clauses 3 - 28

Clauses 6, 10, 20, 23

Abbreviations:

ABC – Antrim Borough Council
ABCNM – Armagh, Banbridge, Craigavon, Newry and Mourne Councils
AN – Arena Network
AR – Anja Rosler
ASDA – Asda
AT – Alan Tedford
BBC – Ballymena Borough Council
BCAW – Belfast City Airport Watch
BCC – Belfast City Council
BCT – Belfast Civic Trust
BD – Bill Donnelly
BHC – Belfast Healthy Cities
BHRA – Belfast Holyland Regeneration Association (endorsed via email by Rosana Trainor, Henry, Sarah and Thelma Deazley)
BMRG – Belfast Metropolitan Residents' Group
BNF$ - Belfast Not For $hale
CAC – Corralea Activity Centre
CBC – Castlereagh Borough Council
CBI – CBI Northern Ireland
CCC – Cavehill Conservation Campaign
CEF – Construction Employers Federation

CH – Connal Hughes
CIEH – Chartered Institute of Environmental Health
CMCC – Ciaran McClean (Member of the Public)
CNCC – Council for Nature Conservation and Countryside
CP – Community Places
DB – David Bolton
DBK – Dawn Bourke (Member of the Public)
DCOD – Dr Carroll O'Dolan
DG – Committee based on discussions with Daniel Greenberg QC
DGBA – Dundonald Green Belt Association
DMW – Development Media Workshop
DN – David Noble
DP – Donaldson Planning
DS – David Scott DSTBC – Dungannon and South Tyrone Borough Council
FFAN – Fermanagh Fracking Awareness Network
FJ – Fiona Jones
FOE – Friends of the Earth (endorsed via email by Antrim & District Angling Association, Kenneth Dougherty/Public, Jim Martin/Public, Jim Gregg/Public, The Right Honourable Sir Liam McCollum/Public, Michael Martin, Vice Chair, Six Mile Water Trust, Adrian Guy, Dr Miriam de Burca/Public, Richard Rowe/Public, John Martin/Public, Heather McDermott/Public)
FT – Fermanagh Trust
GC – Geraldine Cameron
GD – Gerard Daye (Member of the Public)
GE – Geraint Ellis (QUB) (endorsed by Seahill Residents' Association)
GHEG – Greenisland Heritage and Environment Group
GL – Professor Greg Lloyd.
GMCA – Geralyn McCarron
HCG – Holywood Conservation Group
IOD – Institute of Directors
JMcG – Joe McGlade
JA – John Anderson
JC – J Cosgrove (Member of the Public)

LC – Lecale Conservation
LINI – Landscape Institute Northern Ireland
LS – Laurence Speight
LVG – Lagan Valley Residents' Association
MC – Mark Crean
MERA – Mounteagles Ratepayers Association
MG – Mairead Gilheaney
MK – Mr Mark Kearney (Member of the Public)
MMcC – Majella McCarron
MS – Marian Silcock
MT – Martina Tedford
NIBG – Northern Ireland Biodiversity Group
NIEL – Northern Ireland Environment Link
NIHE – Northern Ireland Housing Executive
NILGA – Northern Ireland Local Government Association (endorsed by Omagh District Council)
NIRIG – Northern Ireland Renewables Industry Group
NMDC – Newry and Mourne District Council
NT – National Trust
PAC – Planning Appeals Commission
PP – Patricia Pederson
QPANI – Quarry Products Association Northern Ireland
QUB – Queen's University Belfast
QUBPACE – Queen's University Belfast: School of Planning, Architecture and Civil Engineering
QUBPSR – Queen's University Belfast: Planning for Spatial Reconciliation
RG – Robert Graham
RI – Richard Ireson
RMG – Rosemarie Gilchrist
RSPB – RSPB Northern Ireland
RTPI – Royal Town Planning Institute Northern Ireland SCNI – Supporting Communities in NI
SBPB – South Belfast Partnership Board
SBRG – South Belfast Residents Group
SCNI – Supporting Communities NI

SS – Siobhan Small
TF – Tim Fogg
TW – Tom White
UAF – Ulster Angling Federation
UAHS – Ulster Architectural Heritage Society
UMARA – Upper Mounteagles Avenue Residents Association
UWT – Ulster Wildlife Trust
VR – Victor Russell
WHJ – WH Jones
WT – Woodland Trust
ZK – Zelda Kingston

CLAUSE NO	CLAUSE (FROM BILL)	EXPLANATIONS (From Explanatory and Financial Memorandum)	VIEW FROM SUBMISSIONS	OPTIONS	DEPARTMENT'S COMMENTS
6	**Determination of planning applications [j25]** **6.**—(1) In Article 25 of the 1991 Order (determination of planning applications), after paragraph (1) insert— "(1A) Without prejudice to the generality of paragraph (1), the reference in that paragraph to material considerations includes a reference to considerations relating to any economic advantages or disadvantages likely to result from the granting of or, as the case may be, the refusal of planning permission.". (2) In section 45 of the 2011 Act (determination of planning applications), after subsection (1)	Clause 6 amends Article 25 of the Planning (Northern Ireland) Order 1991 and Section 45 of the Planning Act (Northern Ireland) 2011 by including provision that material considerations in the determination of planning applications includes a reference to considerations relating to any economic advantages or disadvantages likely to result in granting or refusing planning permission.	1. I would appreciate a detailed explanation as to how the individuals who entered this clause ever conceived it would work in practice. 2. Planners, applicants and objectors will have to employ an army of economists to make sense of all the claims and counterclaims. 3. By what measure is economic growth to be measured?		1. See response to Issue 9 – Clause 2. . 2. See response to Issues 9 & 11 – Clause 2. 3. Economic development is viewed by the Department as a policy intervention endeavour with aims of economic and social well-being of people, while economic growth is more a phenomenon of market productivity and measured by GDP. Clause 6 does not make reference to 'economic growth' however Clause 2 sets an objective for the Department of, inter alia, promoting 'economic development', thereby contributing towards growth in the economy.

	insert— "(1A) Without prejudice to the generality of subsection (1), the reference in that subsection to material considerations includes a reference to considerations relating to any economic advantages or disadvantages likely to result from the granting of or, as the case may be, the refusal of planning permission.".		4. Natural disasters such as flooding or mudslide increase GDP but will certainly not be welcomed by the population at large. Should planning facilitate such disasters in the interests of a narrow definition of economic growth? 5. If jobs are a main determinant of economic development then by what are they measured? Are 12 part time jobs in one application better than the 6 full time jobs promised by another? How will the planning service enforce these applicant's claims of future jobs? **(CH)**		Further guidance will be provided in the SPPS with respect to economic development. 4. No, this is not the purpose or intention of the planning system. The intention of the Bill is to speed up reforms and modernise the planning system before the majority of planning powers transfer to local government in 2015. 5. Potential (sustainable / long-term) job creation of is but one measure in considering the economic advantages of any proposed development. Moreover, the planning system does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases. The basic question is whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. The economic advantages / disadvantages of any particular

					proposal will therefore be relevant to the wider community as a whole i.e. in the public interest. Further policy and guidance will be published by the Department which may direct as to the scale of development to which such considerations will require greater scrutiny. The proposed SPPS will set out details on economic considerations based upon a balanced and proportionate approach which works in the public interest.
			6. The Department should not proceed with the additional provisions without public consultation. How is the Department justifying the inclusion of additional provisions that have not been subject to public scrutiny and impact assessments? **(UAF) (ABCNM) (AT)(ABC)**		6. While the Bill does include some additional provisions over the 2011 Act, the Assembly legislative process ensures that all stakeholders will have the opportunity to comment on and influence the Bill.
			7. Who identified provisions for economic development as 'desirable additions'? **(UAF)**		7. The Minister, after discussions with the Executive Committee agreed these additions be included to the Bill.

			8. Will singling out economic considerations from the 'any other material considerations' give such considerations additional weight above unnamed material considerations? If not, why is it specified and why are social and environmental considerations not specified? Concerns that the perceived economic aspect would take precedent. **(LVG)** **(UAF)** 9. This is consistent with Clause 2 and is welcome **(CEF)** 10. What is the risk of excluding the phrase 'as the case may be' on each of the 2 occasions it is used in Clause 6? **(DG)** 11. Unclear how economic advantages/disadvantages could be assessed, especially since an application could have economic advantages to the applicant but disadvantages to the immediate neighbourhood		8. See response to Issue 9 – Clause 2. 9. Noted. 10. This is a matter of drafting style and follows the usual style in Northern Ireland. If the Committee wish the Department will raise further with Legislative Counsel. 11. See response to Issue 5 above.

			(large supermarket versus local shops). **(LVG)** 12. The inclusion of consideration relating to economic advantages/disadvantages creates significant scope for litigation and escalating challenges between competing developers. This clause should be removed from the Bill. **(SCNI)(MK) (DB) (GD) (CONF) (DN)** 13. This will also require further training and guidance for planners and potentially the employment of specialist economists in the Department of the Environment. 14. It is not clear what sort of economic assessment will be required, although the across Government the most commonly accepted is a Green Book Assessment and it is difficult to see how anything less than this could provide the complete picture of the economic impact of a development. **(GE) (BCAW) (BCT) (JC)**		12. See response to Issue 5 above and Issue 9 Clause 2. Personal financial circumstances are not a material consideration in the planning decision making process. 13. Guidance and training will be provided by the Dept. The Department also employs economists. 14. The Department is not advocating the use of Green Book Assessment to assist it in determining the economic advantage / disadvantage (as the case may be) of any particular proposal. See also Comment 5 above. Further policy and guidance will be published by the Department which will set out details on economic considerations and a balanced, proportionate approach which works in the public interest.

			15. 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 and of course, open to challenge in the courts. 16. The Bill also appears to introduce the dangerous precedent of having to routinely consider personal circumstances when deciding		15. The Department's guiding principle in determining planning applications is that development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases the Department has power to refuse planning permission. See also Comment 9, Clause 2. Within this context, this provision is not attempting to 'revive the broader regional economy', but neither should the planning system operate in isolation in a manner which acts as an impediment to development and economic progress.. Planning has an important role in facilitating sustainable development and economic development. Good planning, quick decisions, balanced by a favourable planning environment are key to economic growth and new jobs. . 16. See Comment 5 above.

			planning decisions. 17. 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. 18. 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. Clause 6 should be removed from the Bill. **(GE)(BCAW)(BCT)(DGBA)(BHC)(FOE) (MG) (MMcC) (MC) (MT) (SS) MS)(NIEL) (BCT)(RG)(SBRG) (AN)(BMRG)(DP)(JA)(LINI)(L**		17. Case Law has ruled that Economic considerations are already a material planning considerations. See Comment 5 above and Comment 9, Clause 2. 18. See 5 above. The Department will only impose conditions that, in its opinion, are necessary, relevant to planning, relevant to the development being permitted, precise, enforceable and reasonable in all other respects.

			C)(WHJ)(BNF$)(BD)(FJ)(GC)(JMcG) (LS)(QUBPACE) 19. The key issue is how much weight, relative to other factors, is to be given to economic considerations. More guidance is needed from the DOE on how this will be assessed. **(CBC)(BCC)** 20. We recommend that this clause is removed and that guidance on the assessment of economic considerations be addressed through the planning policy development process and following public consultation. **(CP)** 21. Ballymena Council would endorse this. **(BBC)** 22. What level of economic data will be required? Will a very		19. See Comment 9 – Clause 2. Further policy and guidance will be published by the Department which will set out details on economic considerations and a balanced, proportionate approach which works in the public interest. 20. Noted. See comment 9 on Clause 2. 21. Noted. 22. See comment 14 above.

			detailed economic assessment along the lines of an Environmental Impact Assessment be demanded, or will it merely be some very crude figures that are difficult to assess? Who will assess the figures put forward? 23. How will economic data be judged against environmental and social data? What time scales will be considered? 24. The terms used in Clause 6, including 'promoting', 'sustainable development', 'well-being', economic advantages' and 'economic disadvantages' are not clearly defined, and as such are open to a wide range of different interpretations. At the very least we consider that there should be a screening process to assess any likely effects, as		23. See comment 14 above. Planners have to weigh all material factors (including environmental and social) policies, laws, evidence and precedents and come to the balanced judgment call based on that evidence. Each application must be considered on its own merits. Further policy / guidance will be published. 24. See comment 80 on Clause .

			was carried out with the Regional Development Strategy, and that such a process should take place before any change is introduced. Costs 25. Remarkably the Partial Regulatory Assessment which accompanies the Bill fails to consider these potential costs. We would recommend that a complete PRA is completed before this Bill progresses any further if these clauses are to be included in the legislation. **(CNCC)(VR)** 26. How could Planners adjudicate on the economic		25. As good practice dictates a Partial RIA was required and undertaken for the Planning Bill as part of the process of policy development and implementation. The Department in preparing the Partial RIA would be required to make an assessment of the likely benefits or costs on small business, charities, social economic enterprises or the voluntary sector associated with clause 2. As the RIA is an iterative process the Partial RIA can and should be developed to further consider the likely impacts of the provisions in the Planning Bill, including clause 2, as they are developed through the Assembly process. Further assessments should be prepared for the associated subordinate legislation and planning policies necessitated by the implementation of the policies when the Planning Bill is enacted. 26. See response to Issues 5 & 23 above.

			balance between the advantages and disadvantages of a particular application? **(GEHG)** 27. The use of outside consultants to assess the application is unlikely to be of any benefit as we have never heard of a case where such consultants have failed to agree with an applicant. **(HCG)** 28. The wording, "considerations relating to any economic advantages or disadvantages likely to result" if not removed entirely (which would be our preference as we consider that the matter is covered within Clause 2) should be amended to read "considerations relating to any public or private economic effects likely to result" 29. Providing proper guidance on considering the value of public goods, biodiversity and ecosystem services within planning decisions will be of critical importance as we		27. There is no requirement for the Dept or developers to engage outside consultants. 28. Noted. Personal financial benefits are not a material consideration. See comment 5 above. 29. Noted. However, Case Law provides for what are material considerations.

			move into this next phase of planning legislation and planning practice and the devolution of planning to local government. **(NIBG)** 30. NILGA would query whether the Planning Bill is the appropriate vehicle to strengthen economic development considerations whilst recognising and supporting the need to sustainably develop local economies. The key issue is how much weight, relative to other factors, is to be given to economic considerations. **(NILGA)** 31. NIRIG welcomes the emphasis on economic benefits as consistent with PPS18 and the genuine benefit from investment in renewable energy infrastructure. **(NIRIG)** 32. Supports the economic advantage (or disadvantage) of an application. This is a positive step. It would be useful if the Department produced guidance on this,		30. See comment 23 above. 31. Noted. 32. Noted. Guidance will be published.

			especially for their own Officers to follow. **(QPANI)** 33. It is not clear what sort of economic assessment will be required under clause 6 when submitting applications for individual projects that sit within the integrated programme. The University's development strategy will be critical in helping to support the Programme for Government and in growing a sustainable local economy. **(QUB)** 34. Clause 6 provides optimum conditions for developers of competing schemes, to become embroiled in lengthy battles regarding the economic advantages and disadvantages of each of their schemes leading to a slowing down of the planning system and increased legal challenge – all contrary to the objectives of planning reform. 35. More worrying however from an RSPB perspective, is the situation where economic advantages will time after time take precedence over the		33. See response to Issues 5, 14 & 23 above. . 34. See response to Issue 5 above. This determination applies to individual applications in the public interest and not to the comparison between different applications from different developers. 35. See comment 9 on Clause 2.

			unnamed material consideration of the environment. The balancing of any other material considerations will be lost. Clause 2 and Clause 6 collectively threaten sustainable development. 36. Other concerns relate to the fact that there are presently no economists in DOE. In the absence of such experts, DOE will not be qualified to assess the economic advantage or disadvantage presented. 37. Furthermore, the RSPB would welcome clarity on how the Department actually proposes to legally enforce such economic claims (e.g. job creation, or revenue generation for an area). As far as the RSPB is aware there is no legal mechanism to secure such benefits through planning conditions as they lie outwith the scope of planning. For all these reasons, the RSPB believes that Clause 6		36. See response to Issue 9 and 11 on Clause 2. 37. See response to Issues 18 & 23 above.

			should be deleted. **(RSPB)**		
			38. We would urge the committee to enact a policy of sustainable development as defined by the World Commission on Environment and Development 1987; "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". **(FFAN)**		38. See response to Issue 1 – Clause 2.
			39. It's debatable whether the duty of Economic promotion could be in direct opposition to EIA assessments as the process of an EIA may reduce a claimed economic advantage **(TW)**		39. See response to Issue 9 - clause 2.
			40. The Society urges the Committee to recognize that the introduction of an additional and separate objective [enshrined in clauses 2 and 6 of the Planning Bill] to promote economic development rather		40. See response to Issue 9 - clause 2. In addition, the intention of the bill is to speed up reforms and modernise the planning system before the majority of planning powers transfer to local government in 2015. Bringing forward some of the reforms, agreed by the

			than considering the achievement of a sustainable economy as part and parcel of an assessment of sustainable development, serves only to undermine, delay and thwart such an assessment. By way of illustration, we would point out that an attempt to fulfil this additional role would be hampered by the absence of a clear definition of the following: • the meaning of economic development; • agreed criteria upon which a judgement of economic benefit is to be based - the most commonly accepted being those to be addressed by a suitably qualified expert as part of a Green Book Assessment; • who should benefit – specific individuals or society at large; • whether it is to be assessed in the long- or short-term; • staff adequately		previous Assembly, in the 2011 Planning Act now means that the benefits can be realised sooner.

			skilled, trained and resourced to carry out such an assessment; The introduction of a specific requirement to promote economic development fundamentally alters this recognised role, and attempts thereby to use planning for a purpose for which is neither designed nor authorised under its legislation, opening up a potential area of legal conflict and challenge. 41. Furthermore, the Society is aware of the considerable amount of work yet to be done, and small staffing resources currently allocated, to ensure the successful completion of the outstanding Planning Policy Statements and Urban Design Guide scheduled to be made available for public consultation within the calendar year; and the amount of work yet to be done to draft the intended Single Planning Policy Statement and its supporting guidance. Additional resources may yet be required to achieve these		41. See response to Issue 40 above. The Dept considers current resources are adequate. However, this will be kept under review.

			agreed targets, and we would urge the Committee to ensure that this should take priority. The additional work that will inevitably be generated in association with Clauses 2 and 6 of the Planning Bill will inevitably introduce delays and further expense into the system, and hamper the achievement of existing targets. **(UAHS)** 42. The UWT considers that a specific reference to economic advantages and disadvantages should not be inserted into legislation, for the following reasons: • economic considerations are already material to the decision making process. Case Law has demonstrated this; • this provision could potentially elevate economic considerations to a primary consideration, above all others. The Bill could lead to a system where the party with the greatest resources (in proving/disproving economic advantages to		42. See response to Issue 9 on Clause 2.

			an application) is successful in achieving their desired outcome. • it could lead to less weight or attention being given to environmental considerations such as landscape impact, habitat, impacts of climate change etc; • the planning authority may be obligated to specifically incorporate economic assessments into their determinations across the full spectrum of development projects; and • it could lead to increased pressure on staff resources, increase the need for external consultancy advice, and encourage a situation whereby applicants or objectors feel obliged to submit detailed economic appraisals in support of their case. 43. In short, there is simply no justification for the inclusion of this provision in		43. See also response to Issue 9 – Clause 2.

			legislation. **(UWT)** 44. It is proposed that article 25 of the 1991 Order and section 45 of the 2011 Act are both revised to include the following statement, "Without prejudice to the generality of paragraph (1), the reference in that paragraph to material considerations includes a reference to considerations relating to any economic advantages or disadvantages likely to result from the granting of or, as the case may be, the refusal of planning permission.". 45. Unless this statement is fully qualified, we remain very concerned that this could grant permission to support development that damages, rather than enhances our natural environment. We therefore urge the Committee to consider a clear statement that ensures that economic development is not supported when it impinges upon delivering true sustainable development i.e. supporting development that enhances		44. See response to Issue 5 and on issue 9 on Clause 2. 45. See responses to Issues 5 & 23 above.

			and protects our natural environment rather than damages it. 46. In respect to Northern Ireland, we would state that this should cover all woods as listed on the Ancient Woodland Inventory. **(WT)** 47. In place of the economic development test, which accords equal status to beneficial and to destructive, dangerous and inequitable development, I would urge the committee to support a policy of sustainable development as defined by the World Commission on Environment and Development 1987; "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". Such a policy would include the		46. This is a general issue. The Department's policy in relation to the protection of trees is set out in PPS2: Planning and Nature Conservation. The Department will seek to protect trees, groups of trees, and woodland areas of particular importance because of their nature conservation value or their contribution to the amenity of a particular locality 47. See response to Issue 1 on Clause 2.

			principles of resource conservation, environmental and inter-generational justice, the precautionary principle, the polluter pays principle and meaningful public consultation. **(ZK)** 48. It is not necessary as economic development is already one of the important factors taken into account when assessing planning proposals. 49. The economic value of a proposed development would be impossible to assess accurately, especially by planners who are not trained as economists. 50. There is a contradiction between the primacy of economic factors and the responsibility to encourage and protect sustainable development. The favouring of the former over the latter would have disastrous consequences for Northern Ireland's vulnerable natural environment and the health and prosperity of our people.		48. See responses to Issue 9 on Clause 2, and to Issue 23 above. 49. See response to Issue 1 on Clause 2 and comment 5 above. 50. See response to issues 1 and 3 on clause 2.

			There would be no way of monitoring compliance with the economic conditions of planning approval. 51. No effective sanctions would be enforced against developers who reneged on their promises of economic benefit. **(AR) (CAC) (DB) (DS) (DMW) (DCOD) (TF) (RI) (PP)** 52. There is nothing in the draft Bill to suggest that this consideration will eclipse all others. This point was stressed by Minister Attwood in the Assembly on 22 January.We believe, therefore, that it is axiomatic that this provision should be included in the Bill. The key question, however, is how the proposed assessment will be made, who will make it and		51. See response to Issue 9 on Clause 2 and issue 18 above. 52. Noted. The Department remains committed to the furthering sustainable development as set out in clause 2.

			what form it will take. In this regard, the Minister has stated that, beyond the law, there will be a requirement to have further policy if not guidance. It is therefore crucial that careful thought is applied to the design of this policy and guidance and we in the IoD would be very happy to contribute to this process. **(IOD)** 53. The NIHE would like to see considerations on the environment and society given equal weight with economic considerations and these should be contained in the planning policy. 54. The NIHE considers the word 'promote' in relation to economic development is not suitable. The NIHE believes that the promotion of economic development would be better seated in a community planning framework which can support and integrate economic development programmes and regeneration, tailored to local circumstances and with community involvement. If this clause remains within		53. See response to Issue 3 and 9 on Clause 2. 54. Noted. See response to issue 9 on Clause 2.

			legislation there will need to be detailed guidance on how the promotion of economic development will be assessed. **(NIHE)** 55. Concern that the introduction of this clause will enable applications that promote economic development to take precedent over the other elements of sustainable development. PPS 4: Planning and Economic Development, sets out the Department's planning polices for economic development uses and indicates how growth associated with such uses can be accommodated and promoted in development plans. 56. There is a concern from some members that through the RDS and PPS 4 there is sufficient policy structure in place to ensure that applications and proposals are given relevant consideration in light of promoting economic growth. The tension around the inclusion of the clause promoting		55. See response to Issue 9 – Clause 2. 56. Noted. See also response to Issue 9 – Clause 2.

			economic development is further heightened by the concern that some members expressed with regarding to introducing this ahead of RPA. It was felt that the clause will lead to conflict amongst councils who will be competing for development and will enable the approval of a proposal that may otherwise have been rejected. 57. In light of these concerns and the importance of both economic and sustainable development it is proposed that the relevant clauses should be included:– • 'The core function being furthering sustainable development through the promotion of economic, social and environment objectives' **(RTPI)** 58. First, there are on-going debates about the role of land use planning in the economy. In part these reflect broad ideological arguments– but there remains disagreement about the purpose of land use planning in a modern		57. Noted. See responses to Issue 1 Clause 2 & Issue 9 Clause 2. 58. Noted. Will be covered in guidance and policy.

			economy. **(GL)** 59. Second, there are different understandings and interpretations of (macro-) economic development in current policy and political debates. **(GL)** 60. Third, there is the possibility of the capture of the economic regime by communities of interest – here there needs to be a solid culture of understanding as to the spirit and purpose of land use planning. **(GL)** 61. Finally, there is the potential perception that the inclusion of economic development in the interim legislation pre-empts or over-rides environmental considerations. Here there is need for particular clarity – and there needs to be a full debate about the relationship between economic and environment. **(GL)**		59. Noted. Will be covered in guidance and policy. 60. Noted. Will be covered in guidance and policy. 61. Noted. See response to Issue 9 – Clause 2.

			62. There is an alternative – the ecosystem approach which represents a paradigm shift in the management of the natural environment and those of its constituent resources that derive from the functioning of component ecosystems. **(GL)** 63. The significance of the ecosystem approach rests on it establishing an alternative to more conventional approaches to the management of the natural environment. These tend to be driven by a set of capitalist market values based on exploitation and development for material production of goods and services. The driving forces have been a focus on economic growth, profit and based on short term perspectives. In contrast, then, the ecosystem approach is held to offer an alternative framework for achieving sustainable development and the utilisation of marine resources in ways that ensure that people and economic systems are integral parts of the solution as well as the sources of environmental		62. Noted. Will be covered in guidance and policy. 63. Noted. Will be covered in guidance and policy.

			challenges and vulnerabilities. **(GL)** 64. We are strongly opposed to this clause which poses many challenges: • It puts an unwarranted additional focus on economic factors; • The range of factors to be assessed (economic advantage and disadvantage against both approval and refusal of an application) is complex, yet it is unclear what level of assessment would be required. This could range from detailed economic appraisal to unsubstantiated assertions about jobs and investment; • Currently there is limited expertise available in economic assessment and financial appraisal to assess such factors; a great deal of additional		64. Noted. See responses to Issue 1and 9 on Clause 2. Guidance will be published by the Department.

			resources and expertise would need to be added into the planning system, particularly after the RPA. This will require additional staff at local council and departmental level. • There is no framework or assessment criteria and therefore the clause will be open to vastly different interpretations. • The clause shifts the focus of the planning system from its core purpose of the orderly and appropriate development of land in the public interest, and expects the planning system to deliver something it is not designed to do; • While economic development brings public benefits, the issues of economic advantage or disadvantage are often focussed on private		

			interest and the potential for this clause to prompt more objections and counter objections, appeals and legal challenges is very high; • The clause focuses only on economic advantage/disadvantage and does not provide any requirement to also weigh social and environmental factors in the balance; • Economic advantage/disadvantage is usually measured in the short term, while environmental and social factors need to be assessed over much longer time frames. Thus decisions weighted towards current economic advantage may fail to take into account longer term environmental costs or benefits. • In the event that this clause is applied and		

			economic advantage is given determinative weights, there is no mechanism within the planning system to ensure the purported benefits are delivered. For example, there is no means of redress if the promised jobs are not delivered or sustained in the long term. For all of these reasons, we recommend that this clause should be dropped. **(National Trust)**		
10	**Public inquiries: major planning applications [j31]** **10.** In Article 31 of the 1991 Order (special procedure for major planning applications)— (a) in paragraph (2) for	This clause amends Article 31 of the Planning (Northern Ireland) Order 1991 to allow the Department to appoint a person other than the Planning Appeals Commission to hold a public local inquiry [or hearing] to consider	1. What is the risk of excluding the phrase 'as the case may be' in 10(c) (DG)		1. This a matter of drafting style. The wording follows the usual style in N Ireland. If the Committee wish the Department will raise further with OLC.

	the words from "to be held" to the end of that paragraph, substitute "to be held by— (a)the planning appeals commission; or (b)a person appointed by the Department for the purpose."; (b)in paragraph (3) for "commission" substitute "commission or a person appointed by the Department for the purpose"; (c)in paragraph (4) for "commission" substitute "commission or the person appointed by the Department for the purpose of the inquiry or hearing, as the case may be".	representations made in respect of any application to which Article 31 has been applied.	2. Object ((MK, GD, UWT, GE, BCAW, BCT, JC, BMRG, DP, FT, HCG, JA, MS, PAC, RSPB, NT, SBRG, UAHS, WHJ, QUBPACE) 3. May be useful when the PAC is under resource pressure but the type of individual appointed to undertake such inquiries must have an appropriate background and knowledge of planning matters (CEF, BBC) 4. What are the criteria to appoint another person to hold a public enquiry? (LVG, SCNI) 5. If appointed by the DOE will that person be truly independent? (LVG, SCNI, GE, BCAW, BCT, CBC, CP, BCC, DGBA, AN, FOE, BBC, BMRG, CIEH, DP, CNCC, JA, NIEL, PAC, UAHS, WHJ, CH) 6. How will consistency be achieved and potential bias avoided? (CBC, ABCNM, CIEH, CNCC)		2. Noted. See also Comment 2 – Clause 20. 3, 4, 5 & 6. In appointing examiners other than the PAC the Department will have regard to the application of proper process and rigorous standards in order not to compromise principles of transparency and independence. The Department will only appoint other person(s) in the unlikely event that the PAC is unable to conduct a hearing or inquiry within a reasonable timeframe. The Department will ensure the impartiality of the person appointed and consequently there should be no reason to question their integrity. It is envisaged that the approach to be adopted for inquiries by independent examiners appointed by the Department will follow that by the PAC for consistency.

			7. PAC should be able to appoint temporary commissioners as needed (LVG, SCNI, DB, GE, BCAW, BCT, SBRG, AN, FOE, AT, BMRG, DN, FT, MG, MMcC, MC, MT, SS, NIEL, RSPB, SBRG, QUBPACE) 8. OFMDFM should be able to appoint temporary commissioners as needed (CBC, CP, BCC, ABC, NILGA) 9. Whatever procedure is established must ensure that there is no actual or perceived conflict of interest between the appointed commissioner and the parties involved (SCNI, NIEL, BCT, CH 10. Unwise to have two departments responsible for appointing people to hear appeals or conduct inquiries (CP). 11. DOE appointees might be influenced subconsciously by the		7 & 8. The Commission already has the power to appoint persons to help the PAC in the performance of its functions. 9. See response to Issue 3 above. The Department will ensure that any person appointed is impartial and has no conflict of interest. 10. The Department will appoint the PAC or independent examiners to inquiries. As previously stated this power would only be used in the exceptional event that the PAC does not have the resources to conduct the hearing/inquiry within a reasonable time. 11. See response to Issue 3 above.

			thought that if they were to provide a report critical of the Department, they might not be appointed again (PAC) 12. There would inevitably be differences in the way inquiries and hearings would be conducted by the Commission and by Departmental appointees and in the degree of scrutiny to which the Department's case and that of other parties would be subjected. This would be confusing for participants and could be considered unfair.(PAC) 13. Article 111(2)(b) of the 1991 Order makes provision for the Chief Commissioner to appoint an assessor to sit with members of the Commission. A new provision could extend this power to allow for the appointment of persons to conduct inquiries or hearings (unaccompanied) for a temporary period or for a specific task. Such arrangements would preserve the principle of independent adjudication so vital to public confidence in the planning system, and would ensure consistency of approach. (PAC)		12. It is envisaged that the approach to be adopted for inquiries by independent examiners appointed by the Department will follow that by the PAC for consistency. 13. Noted see comments 10,11,12. The appointment of examiners and assessors is a matter for OFMdFM. It would however appear that OFMdFM has the power to appoint temporary inspectors under the provisions of Article 110((5). To expand existing powers as suggested would remove from the Department, the flexibility to appoint independent examiners.

20	**Fixed penalties [j153]** **20.**—(1) After Article 76B of the 1991 Order insert— **"Fixed penalty notice where enforcement notice not complied with** 76C.—(1) Where on any occasion an authorised officer has reason to believe that a person has committed an offence under Article 72, the officer may give that person a notice offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the Department. (2) Where a person is given a notice under this Article in respect of an offence— (a)no proceedings may be instituted for that offence before the expiration of the period of 28 days following the	This clause inserts 2 articles into the Planning (Northern Ireland) Order 1991. Articles 76C and 76D enable an authorised officer to issue a fixed penalty notice for the offences of failing to comply with an Enforcement Notice or Breach of Condition Notice, offering the offender an opportunity to discharge any liability for the offence without having to go to court. The amount of the penalty can be such amount as may be prescribed. The level of fixed penalty will be prescribed by Regulations and is reduced by 25% if paid within 14 days.	1. Will the Department provide examples of what it may consider necessary or expedient incidental, supplementary, transitional or saving provisions under Clause 20? **(DG)** 2.Object to the inclusion of this Clause **(MK, GD, CEHG)** 3. If offenders have not complied with an enforcement notice, and thus an offence has been committed, it does not seem appropriate for them to be exempt from going to court or to be able to pay a reduced fine. **(LVG, TW)**		1. Such provisions are included in primary legislation to provide a degree of flexibility in subordinate legislation to deal with unanticipated circumstances. At this stage the Department is not aware of any situation where such provisions are necessary in relation to Clause 20. 2. Noted. This Clause simply accelerates the introduction of one of a number of reforms to the planning system contained within the 2011 Act. 3. The use of fixed penalty notices will be discretionary and will follow an assessment of the merits and circumstances of individual cases. Fixed penalty notices will provide planning staff with an additional enforcement tool where a person has failed to comply with an enforcement notice or a breach of condition notice. A fixed penalty notice is a notice offering a person the opportunity of discharging any liability for prosecution in respect of a breach of an enforcement notice or breach of condition notice, by paying the Department a penalty of an amount specified in the notice within 28 days. It does not remove the requirement to remedy the breach of planning control. Should that breach continue the Department will be able to take further action. There is no formal process for withdrawing a fixed penalty notice, but the Department would have discretion not to initiate prosecution proceedings where the notice

	date of the notice; and (b)the person shall not be convicted of that offence if the person pays the fixed penalty before the expiration of that period. (3) A notice under this Article must specify— (a) the step specified, under paragraph (3) of Article 68A, in the enforcement notice which has not been taken; or (b) the activity so specified which has not ceased. (4) A notice under this Article must also state— (a)the period during which, by virtue of paragraph (2), proceedings will not be taken for the offence; (b)the amount of the fixed penalty; and (c)the person to whom and the address at which the fixed penalty may		4. Concern that no further action will be taken if a fixed penalty is paid. Essential that breaches of planning permission are rectified – paying a fine must not provide immunity from prosecution.**(GMC, DB, GE, BCT, DGBA, GMCA, FOE, BMRG, CIEH, HCG, JA, NEIL, RSPB. TW, UAHS, WHJ, QUBPACE)** 5. The proposal to provide for discounted fines has been found in the experience of officers in Local Government to pose problems administratively and attract additional cost which cannot be recovered. It would be much simpler and more efficient to set a fine that is paid for in full by a particular date (**CBC, ABCNM)**. 6.It is not clear if these powers are available to the alternative mechanisms for dealing with appeals referenced in Clause 10.**(CBC, ABCNM)**		was unpaid, if it was felt the terms of the original enforcement notice or breach of condition notice had subsequently been met. 4. See response to Issue 3 above. 5. Comments from the officers in Local Government are noted. A reduction of 25% provides an incentive for a fixed penalty to be paid promptly. 6. See response to Issue 3 above.

	be paid. (5) The Department must not serve more than one notice under this Article in relation to a particular step or activity. (6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in paragraph (4)(c) at the address so mentioned. (7) Where a letter is sent in accordance with paragraph (6) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post. (8) The form of a notice under this Article shall be such as the Department may prescribe. (9) The fixed penalty payable to the Department		7. Where will the money raised in these fines go to? **(CBC, ABCNM)** 8. Where a planning condition has not been complied with, will this give the offender the option of paying a fine rather than complying with the condition? (**CP, JC, RSPB, FFAN, TW, WHJ)**. 9. Any condition that is attached to a planning application should be both necessary and enforceable and it is difficult to imagine in what circumstances it would be appropriate to allow a breach of condition to continue without taking enforcement action. If this clause is to remain in the Bill guidance should be produced which strictly limits the circumstances in which it can be used. **(CP, JA, RSPB)** 10. Is there a risk that this clause will undermine credibility by limiting the opportunities for		7. The receipts from fixed penalty notices will go to the Consolidated Fund Extra Receipts account. 8. See response to Issue 3 above. 9. The use of fixed penalties will be considered in the context of the wider enforcement strategy and guidance will be produced explaining the circumstances in which they can be used. See also response to Issue 3 above. 10. Far from limiting opportunities to take enforcement action the introduction of fixed penalties will provide planning staff with an additional, discretionary enforcement tool

	under this Article is such amount as may be prescribed. (10) But if payment is made within the first 14 days of the period mentioned in paragraph (2) the amount payable is reduced by 25%. (11) In any proceedings a certificate which— (a)purports to be signed by an authorised officer, and (b)states that payment of a fixed penalty was or was not received by a date specified in the certificate, is evidence of the facts stated. (12) Article 2A(2) (service using electronic communications) shall not apply to service of a notice under this Article. (13) In this Article, "authorised officer" means an officer of the Department who is authorised in writing by the Department for the purpose of giving notices		enforcement action? **(DGBA, JC, HCG, SBRG, UAHS, QUBPACE)** 11. The introduction of an administrative penalty will help speed up and increase the efficiency of the planning regime. **(AN)** 12.Fixed Penalty Notices are a useful deterrent, but they are not a remedy to breaches of planning conditions **(FOE, UWT, QUBPACE)** 13. 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		where a person has failed to comply with an enforcement notice or a breach of condition notice. 11. Noted. Fixed penalty notices are intended to strengthen planning enforcement control; be a deterrent; and provide a flexible and cost-effective alternative to court action. 12. Agreed, fixed penalty notices are intended to be a deterrent. Payment of the penalty does not remove the obligation to remedy the breach of planning control which gave rise to the enforcement notice or breach of condition notice in the first place. Should that breach continue the Department will be able to take further enforcement action. 13. See response to Issue 3 above. 14. No objection in principle noted. The issue of fees will be considered in wider discussions in advance of transfer of planning powers to councils. The issue of

	under this Article. **Fixed penalty notice where breach of condition notice not complied with** 76D.—(1)Where on any occasion an authorised officer has reason to believe that a person has committed an offence under paragraph (9) of Article 76A, the officer may give that person a notice offering the person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty to the Department. (2) Where a person is given a notice under this Article in respect of an offence— (a)no proceedings may be instituted for that offence before the expiration of the period of 28 days following the date of the notice; and (b)the person shall not		remedied **(FOE, AT, CIEH, CH, DN, CEHG, MG, MMcC, MC, MT, SS, NEIL, BCT, RSPB, FFAN, UWT, WHJ)** 14. No objection in principle but would welcome an early conversation on fees, including fixed penalties. **(ABC, NILGA)** 15. Support. **(BBC, SBRG, UWT)** 16. A date should be given by which a fine must be paid in full, as opposed to providing for discounted fines. **(CIEH)**		the level of fines for fixed penalty notices will be contained in forthcoming subordinate legislation which will be subject to public consultation and Assembly scrutiny. 15. Support noted. 16. A fixed penalty notice is a notice offering a person the opportunity of discharging any liability for prosecution in respect of a breach of an enforcement notice or breach of condition notice, by paying the Department a penalty of an amount specified in the notice within 28 days. The Department can offer discount of 25% if payment is received within 14 days of the fixed penalty notice issue date. 17. The principle of taking enforcement action commensurate with the level of breach of planning control still applies. See also response to Issue 14 above. 18. Introduction of fixed penalty notices will provide planning staff with an additional, discretionary enforcement tool where a person has failed to comply with an enforcement notice or a breach of condition notice. They will provide enforcement staff with a further tool in their enforcement toolkit.

	be convicted of that offence if the person pays the fixed penalty before the expiration of that period. (3) A notice under this Article must— (a)specify the step specified under paragraph (5) of Article 76A in the breach of condition notice which has not been taken; or (b)the activity so specified which has not ceased. (4) A notice under this Article must also state— (a)the period during which, by virtue of paragraph (2), proceedings will not be taken for the offence; (b)the amount of the fixed penalty; and (c)the person to whom and the address at which the fixed penalty may be paid.		17. Penalties should be commensurate with the value of the site/proposed development. **(DSTBC)** 18.Fixed penalties should form part of a range of escalating enforcement options available to Planning Enforcement **(GEHG, UWT)**		19. Only one fixed penalty notice may be issued in relation to a particular step or activity. There could, however, be several fixed penalty notices issued each relating to a different step or activity within the enforcement notice or breach of condition notice.

	(5) The Department must not serve more than one notice under this Article in relation to a particular step or activity. (6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in paragraph (4)(c) at the address so mentioned. (7) Where a letter is sent in accordance with paragraph (6) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post. (8) The form of a notice under this Article shall be such as the Department may prescribe. (9) The fixed penalty payable to the Department under this Article shall be		19. Clarification is needed within this clause as to how many times fixed penalties may be given for a specific offense if the breach is not rectified. **(NEIL, WHJ)**		

	such amount as may be prescribed. (10) But if payment is made within the first 14 days of the period mentioned in paragraph (2) the amount payable is reduced by 25%. (11) In any proceedings a certificate which— (a)purports to be signed on behalf of an authorised officer, and (b)states that payment of a fixed penalty was or was nor received by a date specified in the certificate, is evidence of the facts stated. (12) Article 2A(2) (service using electronic communications) shall not apply to service of a notice under this Article. (13) In this Article "authorised officer" means an officer of the Department who is authorised in writing by the Department for the purposes of giving notices under this Article.".				

	(2) In Article 129 of the 1991 Order (regulations and orders)— (a)in paragraph (2) at the beginning insert "Except as provided by paragraph (3),"; (b)after paragraph (2) add— "(3) Regulations under Articles 76C(9) and 76D(9) shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly. (4) Regulations and orders made by the Department under this Order may contain such incidental, supplementary, transitional and saving provisions as appear to the Department to be necessary or expedient.".				
23	**Duty to respond to consultation [j126A]**	Clause 23 inserts Article 126A which requires those persons or	1. What is the sanction if the Department doesn't comply with		1. The Department is placed under a prescribed requirement to consult

	23. After Article 126 of the 1991 Order insert— **"Duty to respond to consultation** 126A.—(1) This Article applies to a prescribed requirement to consult any person or body ("the consultee") which exercises functions for the purposes of any statutory provision. (2) A prescribed requirement to consult is a requirement— (a) with which the Department must comply before granting any permission or consent under or by virtue of this Order; and (b) which is prescribed for the purposes of this paragraph. (3) The consultee must give a substantive response to any consultation mentioned in paragraph (2) before the	bodies which the Department is required to consult before determining certain applications for planning permission or consent to respond to consultation requests within a prescribed period or such other period as is agreed in writing between the consultee and the Department. The section also gives the Department power to require reports on the performance of consultees in meeting their response deadlines.	the duty imposed on it in Clause 23? **(DG, ASDA)** 2. Welcome **(CEF, LVG, CBC, CBI, BBC, CIEH, NIRIG, QPANI, RSPB)** 3. Recommend that the time period in which to respond should be no more than 21 days **(CEF, CBI, ABCNM, NIRIG, QPANI)** 28 days **(ASDA)** 4. Consultees must be required to give a substantive response within the prescribed time scale and the Department should be able to intervene and take enforcement action if this does not happen **(CEF)** 5. Who will have the authority to enforce this in different Government Departments? **(CBC, NILGA)**		specified bodies or persons before granting any permission in response to applications for planning permission. Failure to consult could call into question the validity of any such determinations. 2. Noted. 3. Details of the process that statutory consultees will follow will be prescribed in subordinate legislation. This will be subject to public consultation and Assembly scrutiny. 4. See response to comment 3. Consultees may be required to report on their performance. 5. The proposed changes will be overseen by the Department as the unitary planning authority who will work with statutory consultees on the implementation of the new processes. Where another Department may be identified as a statutory consultee it will be responsible

	end of— (a)the period prescribed for the purposes of this paragraph, or (b)such other period as is agreed in writing between the consultee and the Department. (4) The Department may also prescribe— (a)the procedure to be followed for the purposes of this Article; (b)the information to be provided to the consultee for the purposes of the consultation; (c)the requirements of a substantive response. (5) Anything prescribed for the purposes of paragraphs (1) to (4) shall be prescribed by development order. (6) A development order may— (a)require consultees to give the Department		6. The ability to response promptly will require adequate resourcing and the problem will be compounded if the quality of the plans is not up to standard and that makes it more difficult to properly assess the proposals and extends the time to complete the response. **(ABCNM, CIEH)** 7. What are the specific implications for Environmental Health in Local Government? **(ABCNM)** 8. Councils would want to be closely involved in the formulation of the Development Order outlined in this clause **(BCC, ABC)** 9. Where no adequate responses are received by the agreed dates could there be a provision for this		for meeting its statutory duty. 6. The reformed "front loaded" planning system is designed to encourage applicants to provide high quality applications from the outset. Applicants will thus have a role to play in making the system work. Issues regarding resourcing will be a matter for the consultation bodies concerned - discussions ongoing. 7. Departmental officials have met with the Chief Environmental Health Officers Group to provide information on proposed changes. The Department also advised that there would be further opportunity to comment during the public consultation on any subordinate legislation. 8. The proposed legislation will be subject to the public consultation and Assembly scrutiny. 9. The details of the new process will be specified in subordinate legislation which will be subject to the public consultation

	a report as to their compliance with paragraph (3); (b)specify the form and content of the report; (c)specify the times at which the report is to be made.".		to be considered as a non-objection (at the risk of the consultee)? **(BCC, ABC, ASDA, NILGA, NIRIG)** 10. Deadlines should be enforced with suitable penalties **(ASDA)** 11. The 'get out' clause, which allows for certain consultees to amend the prescribed period for providing a response will add uncertainty to the process and could be used to stymie development. It should be removed and replaced with a policy that, in extreme cases where a response cannot be provided within 28 days, still ensures a response is given within the statutory period for consideration **(ASDA)** 12. How will these timeframes be enforced once decision making is		and Assembly scrutiny. 10. There are no proposed penalties for a failure to respond, however, statutory consultees may be required to report on their performance in meeting the duty to respond. Such reporting should help identify how the process is operating in practice. 11. It is not proposed that a consultee will be able to unilaterally amend the prescribed timeframe. An alternative period will only be established by agreement with the Department. Where a consultee encounters difficulty in making a response this cannot be resolved through legislation. 12. Management of the process will be an issue for the councils and their planning

			transferred to individual councils? **(ASDA)**. 13. Due regard should be given to ensuring the decision making process is robust against legal challenge should a decision be taken without the input of late consultees. **(ASDA)** 14. Needs to be a recognition of the size, complexity and volume of detailed Environmental Impact Assessments that accompany many larger planning applications, and which require careful and detailed scrutiny by consultees such as NIEA. We believe that it will be unreasonable to demand a very quick response to more complex applications, and doing so will put consultees in an impossible position. Recommend that response times are set to reflect the scale of the proposed development rather than the adoption of a 'one size fits all' policy. **(CNCC, NEIL, BCT)**		staff in determining relevant applications. Similar reporting arrangements will apply. 13. There is no guarantee that decisions will not be legally challenged. Such decisions will be taken on a case specific basis and it will be a matter for the planning authority whether or not to determine an application in the absence of a response from a consultee. 14. More complex or larger scale applications e.g. those requiring an Environmental Impact Assessment, will need proper consideration and timeframes for responses will need to be appropriate to accommodate such circumstances. The Bill provides for an alternative timeframe to be agreed between the consultee and the Dept.

			15. Lack of expertise in the planning system has led to greater dependence on NIEA expertise. There should be in-house expertise in both the Planning Service and in local authority planning units in ecology, biodiversity and the ecosystem approach. **(NIBG)**		15. These issues will be considered in wider discussions on resources, capacity and technical expertise prior to transfer of powers.
			16. There is a difficulty with NIEA as a statutory consultee as part of the DoE and propose that an alternative statutory consultee is charged with commenting on the nature conservation, biodiversity, ecosystem , habitats and species aspects of planning applications as a support to a strong-in-house capacity. **(NIBG)**		16. Legally, NIEA cannot be a statutory consultee to the Department. Longer-term, post-transfer of planning powers, the Department (including NIEA) may be a statutory consultee to councils as planning authorities.
			17. Local councils will want to be closely involved in the formulation of the Development Order as outlined in this clause which will set-out consultation response procedures. The ability to enforce compliance with consultation requests, or progress determinations in the absence of		17. The details of the new process will be specified in subordinate legislation which will be subject to the public consultation and Assembly scrutiny. The Dept is already closely engaging with the local government sector in relation to planning reform and transfer.

			responses from other Government Departments, will be critical. **(NILGA)**		
			18. Wind farm applications should be considered to be regionally significant applications and should remain centrally within DOE **(NIRIG)**		18. The future proposed hierarchy of development will be the subject of other, separate subordinate legislation flowing from the Planning Act (NI) 2011.
			19. Consideration needs to be given to the likelihood of consultees sending default responses requesting additional yet unnecessary information to 'buy them more time'. **(RTPI)**		19. Statutory consultees will be required to make a "substantive response" to inform the determination of an application, the nature of which will be specified in subordinate legislation. It is not envisaged that a holding response will be considered as a substantive response.