

Planning Bill

Clause by Clause Summary of Responses – Clauses 1 - 2

Abbreviations:

ABC – Antrim Borough Council
ABCNM – Armagh, Banbridge, Craigavon, Newry and Mourne Councils
AN – Arena Network
AR – Anja Rosler
ASDA – ASDA
AT – Alan Tedford (member of the Public)
BBC – Ballymena Borough Council
BCAW – Belfast City Airport Watch
BCC – Belfast City Council
BD – Bill Donnelly (Member of the Public)
BHRA – Belfast Holyland Regeneration Association (endorsed via email by Rosana Trainor, Henry, Sarah and Thelma Deazley)
BHC – Belfast Healthy Cities
BMRG – Belfast Metropolitan Residents Group
CAC – Corralea Activity Centre
CBC – Castlereagh Borough Council
CBI – Confederation of British Industries
CCC – The Cavehill Conservation Campaign
CD – Dr Carroll O'Dolan (member of the Public)
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 the Countryside
CP – Community Places

CRC – Community Relations Council
DB – David Bolton (member of the Public)
DBK – Dawn Bourke (Member of the Public)
DGBA – Dundonald Green Belt Association
DG – Committee based on discussions with Daniel Greenberg QC
DMW – Development Media Workshop
DN – David Noble (member of the Public)
DP – Donaldson Planning
DS – David Scott (member of the Public)
D&STBC – Dungannon and South Tyrone Borough Council
FDC – Fermanagh District Council
FJ – Fiona Jones (member of the Public)
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 and Dr Miriam de Burca/Public, Richard Rowe/Public)
FFAN – Fermanagh Fracking Awareness Network
FT – Fermanagh Trust
GC – Geraldine Cameron (member of the Public)
GD – Gerard Daye (Member of the Public)
GE – Geraint Ellis (endorsed by Belfast Civic Trust & Belfast City Airport Watch)
GHEG – Greenisland Heritage & Environmental Group
HCG – Holywood Conservation Group
HMCD – Heather McDermott (Member of the Public)
IOD – Institute of Directors
JA – John Anderson (member of the Public)
JC – J Cosgrove (Member of the Public)
JM – John Martin`
JMCG – Joe McGlade (Member of the Public)
LC – Lecale Conservation
LINI – Landscape Institute Northern Ireland (also endorse NIEL)
LS – Laurence Speight (member of the Public)
LVG – Lagan Valley Residents' Association

MG - Mairead Gilheany (member of the Public)
MGL – Professor MG Lloyd
MK – Mr Mark Kearney (Member of the Public)
MERA – Mounteagles Rate payers Association
MMC – Majella McCarron (member of the Public)
MMCE – Michael McEvoy
MS – Marian Silcock (member of the Public)
MT – Martina Tedford (member of the Public)
NIBG – Northern Ireland Biodiversity Group
NIEL – Northern Ireland Environment Link (endorsed by Belfast Civic Trust)
NIHE – Northern Ireland Housing Executive
NILGA – Northern Ireland Local Government Association
NIRC – Northern Ireland Retail Consortium
NIRIG – Northern Ireland Renewables Industry Group
NT – National Trust
PAC – Planning Appeals Commission
PP- Patricia Pedersen (member of the Public)
PT – Paul Thompson (member of the Public)
QUB (GS) – Queen’s University Belfast – General Submission
QUB(SOP) – Queens University Belfast School of Planning, Architecture & Civil Engineering
QUB (SR) – Queen’s University Belfast – Planning for Spatial Reconciliation
RG – Rosemarie Gilchrist (member of the Public)
RI – Richard Ireson (member of the Public)
RSPB – Royal Society for the Protection of Birds (Northern Ireland)
RTPI – Royal Town Planning Institute Northern Ireland
SBPG – South Belfast Partnership Group
SBRG – South Belfast Residents Group
SCNI – Supporting Communities in NI
SRA – Seahill Residents Association
SS – Siobhan Small (member of the Public)
TF – Tim Fogg (member of the Public)
TJ – Tanya Jones (member of the Public)

TW – Tom White (member of the Public)
UAF – Ulster Angling Federation
UAHS – Ulster Architectural Heritage Society
UMARA – Upper Mounteagles Avenue Residents Association
UWT – Ulster Wildlife Trust
VR – Victor Russell (member of the Public)
WHJ – William H Jones (member of the Public)
WT – Woodland Trust
ZK – Zelda Kingston (member of the Public)

CLAUSE No	CLAUSE (from Bill)	EXPLANATIONS (From Explanatory and Financial Memorandum)	VIEW FROM SUBMISSIONS	OPTIONS	DEPARTMENT'S COMMENTS
GENERAL COMMENTS					
		<p>BACKGROUND AND POLICY OBJECTIVES The Department of the Environment (DOE) is delivering a major programme to reform the Northern Ireland planning system. Key elements of the programme are already in place including the Planning (Northern Ireland) Act 2011 (the 2011 Act) which received Royal Assent on 4 May 2011.</p> <p>The 2011 Act sets the legislative framework for a reformed planning system. It also gives effect to the local government reforms which will transfer the majority of planning functions and decision making responsibilities to district councils.</p> <p>The Department intends to transfer planning functions to councils in 2015 in line with the Executive's commitment to reform local government. In the interim, the Executive has agreed to the drafting of a Bill to accelerate the introduction of a number of reforms to the planning system contained within the 2011 Act. The Bill will make legislative</p>	<p>1. Disappointed that the present bill for consultation does not go as far as it should to deliver a responsive and balanced planning system and the lack of proper consultation also a concern given the new elements the Bill intends to introduce, particularly on economic development. In addition it is extraordinary that the Bill's Equality Impact Assessment overlooks the new provisions in the Bill, suggesting that they were a hasty afterthought. We believe that this is not a sensible or transparent way in which to introduce important legislation. (CNCC) (SCNI) (NIEL) (GMCA) (CIEH) (RG)(DS)(LC)(FFAN)(NIL GA)(RSPB) LINI) (JMCG) (ABCNM)(ABC) (JM)</p>		<p>1. 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 previous Assembly, in the Planning Act (Northern Ireland) 2011 now, means that the benefits can be realised sooner. While the Bill does include some additional provisions over the 2011 Act, the Assembly</p>

	<p>changes to improve the efficiency and effectiveness of the planning system agreed by the previous Assembly available to the Department in advance of the transfer of planning functions to councils. It therefore brings forward amendments to The Planning (Northern Ireland) Order 1991 which reproduce provisions in the 2011 Act.</p> <p>The Bill also introduces additional provisions to underpin the role of planning in promoting economic development through amendments to both the Planning (Northern Ireland) Order 1991 and the 2011 Act.</p> <p>The Bill is intended as an interim measure most of which will remain in place only until it is possible to fully commence the 2011 Act at which point it will be repealed. However, where the Bill amends the 2011 Act those provisions will apply to the planning system post transfer of planning functions to councils. In keeping with the 2011 Act, the Bill will modernise and strengthen the planning system by providing faster decisions on planning applications, enhanced community involvement, faster and fairer appeals, tougher and simpler enforcement as well as a strengthened Departmental sustainable development duty.</p>	<p>(DMW)(RI)(CD)(VR) (FOE)(QUB –SOP) (MGL) (RTPI) (WHJ)</p> <p>2. It is therefore surprising to see that the Department has not highlighted the significance of such changes – for example it does not</p>	<p>legislative process ensures that all stakeholders will have the opportunity to comment on / influence the Bill. The Bill will be subject to full scrutiny during the Assembly process.</p> <p>The published EQIA Screening makes clear that the additional provisions in the Bill, following considerations, were found not to have any significant implications for equality of opportunity.</p> <p>2. As good practice dictates a Partial RIA was required and undertaken for the Planning Bill as</p>
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			<p>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:</p> <ul style="list-style-type: none"> • Training of planning officers in how to evaluate economic development; • Costs of changing planning application forms to included 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 		<p>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</p>
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			<p>118 pages of guidance, plus another 14 documents of supplementary guidance amounting to a substantial increase in regulatory guidance to be included in a planning application ;</p> <ul style="list-style-type: none"> • 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. <p>This will inevitably lead to a range of costs, including delay to any planning decision subject to challenge and legal costs incurred by the Department. (GE)(SRA) (CBC) (NILGA)</p>		<p>associated subordinate legislation and planning policies when the Planning Bill is enacted.</p> <p>[See also detailed commentary on clauses 2 & 6]</p>
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			<p>3. The changes to the current Planning Bill provide an opportunity to improve those areas of the planning system which may be considered as deficient. One such area is statutory consultees. Currently only planning and roads issues may be conditioned in planning approvals. Other agencies' comments may become informatives, including comments from Northern Ireland Water (NIW) or Environmental Health, which cannot therefore be enforced by the planning authority, currently DOE Planning. This needs to change in order to prevent situations, for example, where residential developments are inhabited without having functioning sewerage infrastructure. (CBC)</p>		<p>3. 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. One key test of whether a particular condition is necessary is if planning permission would have been refused if the condition were not imposed. Otherwise, such a condition would need special and precise justification.</p>
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			<p>4. Our support for the Bill is therefore two-fold: support for the acceleration of reform such as the duty in Clause 22 for statutory consultees to respond within a new statutory period, expected to be 21 days and; support for accelerating reforms that were due to be brought in 2015 so that, from our point of view, councils, planners and the business community are already familiar with and have confidence in the new system in advance of the transfer itself.</p> <p>5. We would also like to take this opportunity to state our view of the critical importance that must be attached to the new council cluster groups working in voluntary, and soon statutory, transition</p>		<p>4. Noted.</p> <p>5. Noted. A Departmental Reform Programme Board monitors progress on all key tasks associated with local government reform</p>
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			<p>committees to develop and enhance their capacity to deal with the new powers, specifically in relation to planning, that will be at their disposal. Regardless of the issues that remain around the financing of local government reform, each new council should, by way of its cluster, seek to come to terms with its new powers and responsibilities long before the new councils take up their role fully in 2015. (CBI)</p> <p>6. We recommend that the Environment Committee recommend to the Department that it provide details within the next three months of its work on preparing for consultation on Third Party Right of Appeal and a target date for issuing a consultation paper. (CP) (UAHS) (FOE) (WHJ) (D&STBC)(NIEL)</p>		<p>including the reform of the planning system and the transfer of the majority of planning functions to councils. Capacity building is a key element of the reform programme.</p> <p>6. It is not the Department's intention to introduce a Third Party Right of Appeal at this time. This will be kept under review in light of the impact of the range of reforms to the planning system.</p>
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			<p>7. The Current Bill as we understand it, the primary objective of the Bill is to accelerate the implementation of the reforms contained within the 2011 Planning Act. We also understand that the primary motivation for this is to ensure that the provisions, relating to: faster processing of planning applications; simpler and tougher enforcement of planning offences; enhancement of the environmental aspects of planning; fairer and faster consideration of planning appeals; and enhanced community involvement in the planning process, are fully embedded in the planning regime before the transfer of responsibility for planning matters to district councils. We welcome this, having argued in the past against the ‘big bang’ approach whereby major reform and transfer of function would be</p>		<p>7. 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 previous Assembly, in the 2011 Planning Act now means that the benefits can be realised sooner.</p>
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			<p>introduced at the same time. (IOD) (NIRC) (NIBG) (BBC) (MGL)</p> <p>8. I wish to express my grave concerns with regard to the proposals contained in the above Bill. It is essential that a totally competent Planning Department be created, tried and tested prior to any consideration of major changes.(PT)</p> <p>9. We believe that the Bill creates more ambiguities than the current position and fails to solve any of the criticisms of present situation and should therefore be dropped. (HCG) (LS)</p>		<p>8. As above.</p> <p>9. As above.</p>
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1	<p>Statement of community involvement [j3A]</p> <p>1. In Article 3A of the 1991 Order (statement of community involvement) after paragraph (2) add—</p> <p>“(3) The Department must prepare and publish a statement of community involvement within the period of one year from the day on which this paragraph comes into operation.”.</p>	<p>This clause introduces the requirement for the Department to produce a statement of its policy for involving the community in its development plan and planning control functions within one year of the clause coming into operation.</p>	<ol style="list-style-type: none"> 1. What is the sanction if the Department doesn't comply with the duty in Clause 1? (DG) 2. Agree with Clause(LVG)(UWT) 3. Hope that the Department will take the time to and the opportunity to engage with S.C.N.I as we have considerable experience and unique insights on community involvement which would add value to any consideration by the Department. (SCNI) 4. We object that the Clause allows the Planners to continue to determine policy on community 	<ol style="list-style-type: none"> 1. While there is no sanction in legislation, the Department will be scrutinised by and accountable to the Committee in terms of its compliance. 2. Noted. 3. & 4. Noted. The Statement of Community Involvement (SCI) is a statement of how the Department intends to engage the public in its planning functions. This will be developed with the engagement of stakeholders.
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			<p>involvement.</p> <p>5. In order to secure an appropriate level of community involvement, Clause 1 must make neighbourhood notifications a statutory requirement; give councils statutory authority to determine what is in the public interest, and require Planners to obtain council agreement on planning decisions.(BHRA) (MERA)(UMARA)</p> <p>6. As this is a process that the Councils will have to carry on after the transfer of planning functions, it is incumbent upon the DOE to make sure that the process is fit for purpose. Arguably it is the Council which is better informed regarding the local community whereas the DOE is removed from this local</p>		<p>5. For details of publicity arrangements for planning application consultation etc see clause 4. Currently the Department must consult and take into consideration council views on applications. Post transfer councils will make the decision on most planning applications.</p> <p>6. The councils will be responsible for the preparation of their own SCI after the transfer of planning powers under Section 4 of the 2011 Act and for deciding the majority of planning applications.</p>
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			<p>context. Further clarity on this issue is required.</p> <p>7. A question arises as to whether all Councils will be able to achieve the one year deadline when Planning is transferred to Councils in 2015, until governance arrangements are agreed, development plans are updated etc. Moreover, it is not clear what 'community involvement' actually means or what resources will be required to ensure it is carried out in a satisfactory manner. Clearly, there will be resource implications which will be dependent on the level of involvement required. (CBC) (ABCNM) (BCC)</p> <p>8. We do have some concern that applicants will now have to give twelve weeks' notice of an application before submitting. There is also an argument to suggest that, by having an extended period and subsequent community consultation,</p>		<p>7. The one year deadline does not apply to councils.</p> <p>The Department will issue guidance on the preparation of the SCI. It is anticipated councils will be able to build on existing initiatives to involve communities.</p> <p>8. This issue is related to clause 5. Please refer to the Department's comments on this Clause.</p>
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			<p>developers should further endeavour to submit sound applications which require minimal alteration. (CBI) (QPANI)</p> <p>9. We recommend that the Committee recommend to the Department that it ensure meaningful and adequately resourced community engagement in the preparation of a draft SCI and a pro-active community and public consultation thereafter. (CP)</p> <p>10. Planners should not arbitrarily reject Council views on planning approvals.</p> <p>11. They should not determine policy on Community Involvement. (JC)</p> <p>12. The provision of a timescale for the Department to prepare and publish a statement of</p>		<p>9. Noted.</p> <p>10. The Department fully considers all council views on applications.</p> <p>11. As above (comment 4.).</p> <p>12. Noted.</p>
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			<p>community involvement is to be welcomed. (AN)</p> <p>13. Definition of well-being with measurable criteria. Guidance needed on pre-application community consultation, and details needed on what is considered adequate consultation. (NIHE)</p> <p>14. Clause 1 perpetuates fundamental weaknesses in the current system. CCC objects that Clause I (Statement of Community Involvement) allows planners to continue policy on community involvement. Elected representatives should be the arbiters of what is in the public interest. (CCC) (HCG)</p> <p>15. Asda welcomes the steps being taken to provide clear policy pertaining to the involvement of interested persons in the</p>		<p>13. Well-being is considered under Clause 2 - please see Department's comments below. Pre-application community consultation is addressed in clause 5.</p> <p>14. See comment 4 above. Councils will be required to prepare SCIs after planning powers transfer.</p> <p>15. Noted. The Department intends to prepare, and publish for</p>
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			<p>exercise of the Department's Development Plan and Development Management Processes. Clarification is sought as to when this provision will come into effect and if the content of the Statement of Community Involvement will be subject to public consultation prior to its implementation. (ASDA)</p> <p>16. Considerable care will be needed in the defining of Community Involvement and particularly relating to the concept of Community Planning. Clearly, it is sound sense to encourage genuine Community involvement in the Planning Process, but it would be a serious mistake to elevate the concept to a status equal to, or above that, of professional Planning Staff and their operation of established policy. (JA)</p> <p>17. We welcome the timed intention to publish this statement and stress the importance of the</p>		<p>consultation its SCI within 1 year from Royal Assent.</p> <p>16. This is a post transfer issue which will be dealt with as part of the wider reform programme.</p> <p>17. See comment 4. Community is taken in its widest</p>
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			<p>Department preparing this statement not in an ivory tower, but in partnership with <i>bona fide</i> community groups in order to produce a document that communities can genuinely ‘buy into’. Community involvement in the planning process is key to improving quality of life for communities and reducing inequality. (BMRG) BPG)(FT) (BBC)</p> <p>18. NILGA would question the evidence for the viability of the proposed one year delivery timeframe, especially in lieu of the ‘in situ’ planning deficit within the local government sector. At a practical level, the Department’s SCI may not be published until late 2014 if the Bill is commenced in December 2013, leaving Councils only six months prior to the proposed transfer of planning functions. This is not sufficient, and consideration of this is urgently required – a Clause 1 (b) could be</p>		<p>sense and will include the public, businesses, voluntary groups and any person who has an interest in the Departmental planning functions.</p> <p>18. This clause relates to the Department’s SCI and will only apply until the transfer of planning functions. The one year requirement relates solely to the Department’s SCI and has no connection to any future council SCI.</p>
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			<p>introduced to accommodate a working arrangement between the Department and the 11 council clusters in respect of SCIs in advance of the transfer as a solution.</p> <p>19. Furthermore, these regulations are likely to stipulate that community groups and the public should be involved in the preparation of this statement. Again, the details as to how this will happen are scant. As this is a process that councils will have to carry on after the transfer of functions (ToF), it is incumbent upon DoE to ensure that the process is efficient, fit for purpose and fully resourced.</p> <p>20. Arguably it is the Council that is better informed regarding the local community whereas the DoE is removed from this local context. Further clarity on this issue is required, particularly with regard to future governance arrangements, the adoption of</p>		<p>19. These comments appear to relate to the preparation of SCI by councils which will be carried out under Section 4 of the 2011 Act and will be developed further as part of the Reform Programme.</p> <p>20. The Department intends to engage with councils on the regulations for the preparation of council SCIs. This will be subject to public consultation.</p>
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			updated development plans/policies and the attendant resource issues that will play a major part in determining the effectiveness of the local government sector in delivering the new planning system. (NILGA)(ABC)		
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2	<p>General functions of the Department and the planning appeals commission [j10A]</p> <p>2.—(1) In Article 10A of the 1991 Order (sustainable development)—</p> <p>(a) for paragraph (1) substitute—</p> <p>“(1) Where the Department or the planning appeals commission exercises any function under Part</p>	<p>Clause 2 amends Article 10A of the Planning (Northern Ireland) Order 1991. A statutory duty is imposed on the Department and the Planning Appeals Commission in exercising any function under Part 2 or Part 3 to do so with the objective of furthering sustainable development, promoting or improving well-being and promoting economic development. In addition where the Department or as the case may be the Planning Appeals Commission exercise any function under Part 2 or Part 3 of the Planning (Northern Ireland) 1991 they must have regard to the desirability of achieving good design. Corresponding amendments are made to Section 1 and Section 5 of the Planning Act (Northern Ireland) 2011.</p>	<p>1. The Planning Bill should be amended to include the generally accepted definition of Sustainable Development from the Brundtland Commission</p>		<p>1. The Department accepts the general definition provided by Brundtland but recognises that other publications, such as the Sustainable Development Strategy for NI, may take this further than that limited definition. The Department is not aware of a legally accepted definition of sustainable development as the concept is too broad to closely define. The Department considers it is more appropriate to view</p>
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	<p>2 or this Part, the Department or, as the case may be, the commission must exercise that function with the objective of—</p> <p>(a)furthering sustainable development;</p> <p>(b)promoting or improving well-being; and</p> <p>(c)promoting economic development.</p> <p>(1A) For the purposes of paragraph (1) the Department or, as the case may be, the commission must (in particular) have regard to the desirability of achieving good design.”;</p> <p>(b)for paragraph (2) substitute—</p>		<p>2. This is an overriding principle of governing with concern for the future and ensuring adequate resources for people to use in the present.</p> <p>3. This clause as it stands will dramatically reduce any chance of sustainable development and leave nothing sacred if someone can state that there will be greater economic development with their planning application.(CH)</p>	<p>sustainable development through policy (Para 11, PPS1) and intends to elaborate upon this in the proposed Single Strategic Planning Policy Statement (SPPS).</p> <p>2 - Accepted.</p> <p>3 - Clause 2 and its three subsections, themes and principles should be read together as an integrated approach rather than selective with a hierarchy therein. This comment is more akin to the comments on clause 6. Please see Department’s comments on that clause.</p>
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	<p>“(2) For the purposes of paragraph (1), the Department or, as the case may be, the commission must take account of—</p> <p>(a)policies and guidance issued by—</p> <p>(i)the Department;</p> <p>(ii)the Department for Regional Development;</p> <p>(iii)the Office of the First Minister and deputy First Minister;</p> <p>(b)any other matter which appears to the Department or, as the case may be, to the commission to be relevant.”.</p> <p>(2) In section 1 of the 2011 Act (general functions of Department with</p>		<p>4. Welcome the provision to give consideration to the promotion of economic development when considering planning applications. (CEF)</p> <p>5. What is the risk of excluding the phrase ‘as the case may be’ on each of the 4 occasions it is used in Clause 2?(DG)</p> <p>6. What are the sanctions if the Department or the Commission don’t comply with the 4 duties in Clause 2? (DG)</p>		<p>4 - Noted.</p> <p>5 - This is a matter of drafting style rather than substance. The wording follows the usual style in Northern Ireland. If the Committee wish the Department will raise further with OLC.</p> <p>6 -These are the objectives for the Department in exercising its statutory functions. While there are no sanctions in legislation, the Department will be scrutinised by and accountable to the Committee in terms of its compliance.</p>
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	<p>respect to development of land)—</p> <p>(a)for subsection (2)(b) substitute—</p> <p>“(b)exercise its functions under subsection (1) with the objective of—</p> <p>(i) furthering sustainable development;</p> <p>(ii)promoting or improving well-being; and</p> <p>(iii)promoting economic development.”;</p> <p>(b)after subsection (2) insert—</p> <p>“(2A) For the purposes of subsection (2)(b) the Department must (in particular) have regard to the desirability of</p>		<p>7. Could the Department explain why it has chosen ‘<i>which appears to</i>’ as the level of certainty in 2(1)(b)? (DG)</p> <p>8. Could 2(1)(b) and 2(2)(a) be redrafted to reduce the paragraph subdivisions? (DG)</p> <p>9. Concern that ‘economic development’ will become the over-riding precedent and ultimately be given greater weight in planning decisions. Planning decisions should be about planning (i.e. use of land, environment, ecology, built heritage etc.) Clear risk that the clause could be interpreted differently by different planners, and subsequent Ministers, as well as creating difficulties</p>		<p>7 - This reflects that “any other matters” is a matter of judgement for the Department or the PAC.</p> <p>8 - These amendments reflect amendments made or suggested by the Committee / Members and the Department was keen to replicate them in the same format. This can be revisited if the Committee wish.</p> <p>9 - Clause 2 and its three subsections, themes and principles should be read together as an integrated approach rather than selective with a hierarchy therein. On Clauses 2 and 6 the Department believes that without compromising the wider purposes and</p>
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	<p>achieving good design.”.</p> <p>(3) In section 5 of the 2011 Act (sustainable development)-</p> <p>(a)in subsection (1), for “objective of furthering sustainable development.” substitute “objective of—</p> <p>(a)furthering sustainable development;</p> <p>(b)promoting or improving well-being; and</p> <p>(c)promoting economic development.”;</p> <p>(b)in subsection (2), after “must” insert “(in particular) have regard to the desirability of achieving good</p>		<p>which may only find resolution after complex legal actions. Clause does not define what it means by economic development and indeed, there is no single definition that is accepted by economists. These two 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 for 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 really need to be dropped. Sustainable development should be defined and reference to economic development removed. (GMCA)(GE)(SRA)(HMCD)(MMCE)(LVG)(SCNI)(BHRA)(GE)(SRA)(MERA)(UMARA)(MK)(GD)(</p>	<p>principles of the planning system, it is timely, appropriate and legally correct to affirm through the Assembly and the Planning Bill that economic considerations are material when it comes to preparing planning policy and determining planning applications. The proposed provisions are in no way a direction that gives determinative weight, or for that matter more weight, to such considerations. Economic considerations are already material, and will continue to be a material factor alongside all other relevant matters in the decision making process. The Department would also add that by definition other material considerations are</p>
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	design and”.		<p>MS)(CMCC)(DGBA)(JC) (SBRG)(AR)(RG)(RI)(DS)(CD) (TJ)(PP)(VR)(TF)(CAC)(DB) (ZK)(AN)(RI)(FOE)(QUBSOP) (BD)(FJ) (CCC) (JA) (HCG) (DP)</p>		<p>neither subverted, nor diminished in importance as a consequence of these provisions, which, in time, will require further policy / guidance to ensure a balanced, proportionate approach is followed. The Department does not intend this to lead to further bureaucracy or complexity, or impact on the overall character and integrity of our planning system.</p> <p>The inclusion of the economic development proposal does not absolve the Department of its sustainable development duty..</p>
			<p>10. Not sure of what is meant by ‘well-being’ or how it can be promoted. (LVG)(SCNI)</p>		<p>10 - The Department intends to elaborate on how the matter of</p>

			<p>(BHC)</p> <p>11. Does Planning Service employ an economist to give advice on ‘economic development’? If not, how can they come to a realistic decision? (LVG)</p> <p>12. Clarification is required on the difference between ‘furthering’ and ‘promoting’; is there a ‘hierarchy’, or what is the difference in emphasis?(SCNI)</p>	<p>“well-being” relates to the planning system in the proposed SPPS which will be subject to Assembly scrutiny.</p> <p>11 – It is not common practice for the Department to use economists in making planning decisions. However, there are currently eleven economists in the DOE. Planning, like other parts of the Department, can access the advice and support of these staff. The Department also has access to economic advice from the pool of economists employed across the wider NICS.</p> <p>12 - The wording in section 1(2)(b) of the 2011 Act “exercise its functions under subsection (1) with the</p>
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			<p>13. In order to ensure planning decisions comply with wider government policies, including economic development, Clause 2 must:</p> <ol style="list-style-type: none"> 1. extend the definition of ‘material considerations’, in 	<p>objective of furthering sustainable development and promoting or improving well-being” was an amendment tabled by the Committee during consideration of the 2011 Act. The Department considers that there is no fundamental difference between furthering and promoting and if the Committee wish will consider, subject to Executive Committee views and legal advice, using one of the words to ensure consistency.</p> <p>13 - Material considerations are set out in PPS1 and established in case law. Under current law material means relevant. If such considerations are in a</p>
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			<p>PPS 1, to cover considerations which are outside the scope of Planning Policy but which are within the scope of wider government policy;</p> <ol style="list-style-type: none"> 2. Define economic development and specify the scope of Planners/Commissioners authority and any limitations thereon. 3. Introduce a procedure to ensure Planners/Commissioners assess planning applications against a checklist/matrix of government policies and policy owners. 4. Introduce a statutory requirement to consult with and follow owners' advice. 5. Require Proportionate economic appraisals for planning applications, as being Green-Book compliant. 6. Introduce a statutory responsibility to convene policy-owner forums to address cross-cutting issues. 7. Make good design 		<p>particular case material the decision maker must have regard to the consideration. (Tesco Stores v Secretary of State [1995] Keith LJ)</p> <p>The proposed SPPS and guidance will set out details on economic considerations and planning and a balanced, proportionate approach which works in the public interest.</p> <p>Cross cutting issues are considered during policy development and at Executive level.</p> <p>Due the subjectivity of good design the Department considers that it as a desirable requirement in any development but may not always be achievable. The Department's policy on good design is set out</p>
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			<p>mandatory rather than desirable. (BHRA) (MERA)(UMARA)</p>		<p>in PPS1. Good design should be the aim of all those involved in the development process and will be encouraged everywhere.</p>
			<p>14. Sustainable development should be defined and reference to economic development removed. (DB)</p>		<p>14 - See comments above on sustainable development at comment 1.</p>
			<p>15. The Bill should be reworded to make it clear how economic benefits will be measured or to provide a list of criteria for local government to ensure regional consistency.</p>		<p>15 - This can be addressed through policy and guidance.</p>
			<p>16. Of some concern is the fact that, following the consultation process in support of draft Planning Policy Statement 24 'Economic Considerations' in January 2011, the Minister determined not to adopt the</p>		<p>16 - This approach is not the same as PPS24. PPS 24 had proposed that full account should be taken of the economic implications</p>

			<p>policy. This clause suggests a change in that stance. This needs to be clarified.</p>		<p>of a planning application. However the Minister, in suppressing draft PPS 24 highlighted that full account of economic implications is already included in planning decisions, was not disputed by many respondents to the consultation and that PPS24 did not add much to this argument. The Bill establishes in statute that a key objective for planning is, along with furthering sustainable development and promoting or improving well-being to promote economic development. It also acknowledges that economic considerations are material considerations to be taken account of when making planning decisions. Unlike draft PPS24 it does not</p>
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			<p>17. More clarity is also required on how the DOE intends to measure ‘good design’ as it may be viewed as a subjective opinion. The principles of good design need to be clearly stated in centrally prepared guidance to be implemented by decision makers consistently. (CBC)</p>	<p>attempt to give guidance on the weight that should be attached to them. Economic considerations must be dealt with in a balanced way alongside other material considerations including social and environmental factors to ensure sustainable economic growth.</p> <p>17 - Building on tradition – A Sustainable Design Guide for the NI Countryside already aims to improve the quality of design in the country side and to help to ensure that new buildings fit into the landscape. The Department is also bringing forward a new urban design manual to assist in strengthening city and town centres. The Department intends to elaborate on good design principles</p>
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			<p>18. We welcome the inclusion in the Bill of the measures to promote economic development. That is of course not to say that developers should not have due regard to good design and environmental impacts, but it is to say that a balance that comes out in favour of development is needed. (CBI)</p> <p>19. Developers can and will make wholly unrealistic claims regarding the economic benefits a development will bring to an area or community. These claims are rarely verifiable and in any case the circumstances can change overnight, often resulting in the developer disappearing. On the other hand, undertakings regarding the measures that will be taken to protect a community or environment are easily forgotten or worked around once a development gets under</p>		<p>in the SPPS.</p> <p>18 - Noted.</p> <p>19 - The Department would not agree with this assumption. At present developers would often submit economic evidence with major applications and other applications with potential job creation and planners have experience dealing with these. Economic considerations must be dealt with in a balanced way alongside other</p>
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			<p>way, and the impact is there forever unless someone, usually with public money, undertakes to put matters right. (JMCG)</p> <p>20. We recommend that Clause 2 be amended to read:</p> <p>“Where the Department or the Planning Appeals Commission exercises any function under Part 2 or this Part, the Department or, as the case may be, the Commission must exercise that function with the objective of furthering sustainable development which secures:</p> <ul style="list-style-type: none"> <input type="checkbox"/> protection and enhancement of the environment; 		<p>material considerations including social and environmental factors to ensure sustainable economic growth in the public interest. In relation to protection measures, the Department takes enforcement seriously which is again evidenced through proposed Clauses 16 and 20 of the Bill.</p> <p>20. See response to Issue 1 above.</p>
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			<p> <input type="checkbox"/> promotion of economic development; <input type="checkbox"/> promotion of social development; and promotion or improving well-being; and which balances current needs with those that may arise in the future.” (CP) </p> <p>21. The Council would commend that any such material considerations should be given equal weighting as the other stated objectives in regards to ‘furthering sustainable development’ and ‘improving well-being’ (BCC)</p> <p>22. Belfast Healthy Cities supports the objectives ‘<i>furthering sustainable development</i>’ and ‘<i>promoting economic development</i>’. Again, we would ask for clarification of the definition of ‘<i>sustainable development</i>’ and ‘<i>economic development</i>’. A full and clear definition of ‘<i>sustainable development</i>’ may cancel out the need for an objective on ‘<i>economic development</i>.’</p>		<p>21 - See response to Issue 1 above.</p> <p>22 - See response to Issue 1 & 9 above.</p>
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			<p>23. In terms of promoting economic development, it is important to highlight that this should be more than job creation. (BHC) (AN)</p> <p>24. UWT suggests that Clause 2 should be reworded as follows: Clause 2 (1)(a)(1):</p> <p>“Where the Department or the planning appeals commission exercises any function under Part 2 or this part, the Department or as the case may be the commission must exercise that function with the objective of furthering sustainable development.”</p> <p>25. The inclusion of a definition based upon the NI Biodiversity Strategy, which states that 'sustainable development will embrace social progress, economic growth and employment, effective protection of the environment, and prudent use of resources</p>		<p>23 - Noted and Agreed.</p> <p>24 - This would also remove well-being which was a Committee amendment during Consideration Stage of the 2011 Act.</p> <p>25 - See response to Issue 1 above.</p>
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			<p>would ensure that there is clarity and balance in the implementation of such an objective.</p> <p>26. It is considered that the need to have regard to international conventions should be incorporated into legislation moving forward.</p> <p>27. Clause 2(1) (b)(2) should be amended as follows: "(b) any other matter which appears to the Department, or as the case may be the Commission to be relevant, including international conventions to which the UK/NI Government is obligated".</p> <p>28. Good design should incorporate sustainable building techniques, materials, energy efficiency measures etc. to assist adaptation to climate change.</p> <p>29. If this provision is to remain in the Bill, the UWT advocates that policy guidance should be</p>		<p>26 - Dept is already bound by relevant international conventions.</p> <p>27 – Noted. See response to Issue 1 above.</p> <p>28 – Noted. See response to Issue 17 above.</p> <p>29 – Noted. See response to Issue 1 above.</p>
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			<p>prepared as a matter of urgency to set out how sustainable design principles must be incorporated into development proposals. (UWT)</p> <p>30. Clause 2 should be reworded to include a definition of sustainable development, and the sub-clause economic development should be removed.</p> <p>31. FOE recommends the following overarching policy on sustainable development to 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, inter-</p>		<p>30 – Noted. See response to Issue 1 above.</p> <p>31 & 32. See response to Issue 1 above. This approach is more suited to subordinate legislation, policy and guidance. Under the provisions of the 2011 Act councils will be required in preparing their local development plans to do so with the objective of furthering sustainable development. Additionally, many of these issues are already addressed in existing</p>
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			<p>generational equity; environmental limits; resource conservation; the precautionary approach; the polluter pays; the proximity principle and public participation.</p> <p>32. FOE recommends the following policy be included –</p> <ul style="list-style-type: none"> • “Plans and planning decision making should apply the sequential test to ensure the most sustainable use of land”. • Re-use of previously developed land & buildings (brownfield sites) within urban areas; • Other previously developed land well connected to public transport links; • New locations within urban areas subject to the need to protect and conserve areas of recognised environmental and amenity interests; • On other sites and locations which reduce the need to travel, and are sustainably located. <p>(FOE)(DN)(MT)(AT)(SS)(MMC)(MG)(MC)</p>		<p>documents including Planning Policies Statements, PPS1:General Principles, PPS2:Planning and Nature Conservation, PPS7:Quality Residential Environments, PPS9: The Enforcement of Planning Control, PPS12: Housing in Settlements, PPS21: Sustainable Development in the Countryside.</p>
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			<p>33. Any attempt to fulfil this additional role would be hampered by the absence of a clear definition of the following:</p> <ul style="list-style-type: none"> • 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 <i>Green Book Assessment</i>; • who should benefit – specific individuals or society at large; • whether it is to be assessed in the long- or short-term; • staff adequately skilled, trained and resourced to carry out such an assessment; <p>34. The Society would urge the Environment Committee to revert to the spirit of the 2011 Planning Act, and include</p>		<p>33 - See responses to Issues s 1,9,11,13, 31and 32.</p> <p>The Department is not advocating the use of <i>Green Book Assessment</i> to assist it in determining the economic advantage / disadvantage (as the case may be) of any particular proposal. 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.</p> <p>34. See response to Issues 1 and 9 above.</p>
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			<p>economic considerations as partners amongst equals in the factors determining whether a development is sustainable; and to resource and empower Planning Service to introduce legislation and guidance fitted to achieve this aim. (UAHS)</p> <p>35. Even with the checks and balances of due diligence in introducing this aspect to the land use planning framework in Northern Ireland this is potentially a contested aspect of the reforms being put into place for a number of reasons.</p> <ul style="list-style-type: none"> • There remains disagreement about the purpose of land use planning in a modern economy. • There are different understandings and interpretations of (macro-) economic development in current policy and political debates. • There is the possibility of the capture of the economic regime 		<p>35 - Noted. This can be addressed through policy and guidance.</p>
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			<p>by communities of interest – here there needs to be a solid culture of understanding as to the spirit and purpose of land use planning.</p> <ul style="list-style-type: none"> • There is the potential perception that the inclusion of economic development in the interim legislation pre-empts or overrides environmental considerations. Here there is need for particular clarity – and there needs to be a full debate about the relationship between economic and environment. <p>36. The politics of resistance to innovation and change in local planning and governance must stop – and Northern Ireland move to a more informed position about the appropriate relations between economic and land use planning. (MGL)</p> <p>37. Concentrating on economic factors in this case appears to be to the detriment of caution - this is a ridiculous risk being undertaken without sufficient</p>		<p>36 - Noted.</p> <p>37 - The Bill does not concentrate on economic factors. Sustainable development is still key</p>
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			<p>thought as to long-term effects.(RG)</p> <p>38. Clause 2. Para 2 (1) (a) (1) (c)The Planning system should concentrate on land use decisions, promoting good design and allocating appropriate locations for <i>sustainable</i> development, not short term ‘economic development promises’ which can burn themselves out quickly and often leave indelible scars on landscape and townscape for generations to come. (GHEG)</p> <p>39. RTPI would urge the Committee to consider why the three objectives are accompanied by three different requirements i.e. ‘furthering’ v ‘promoting or improving’ v ‘promoting’ and deliberate standardising the wording to ensure equality of the objectives.</p>		<p>to an effective planning system and material considerations must be taken into account in determining applications.</p> <p>38 - The Dept is committed to furthering sustainable development and Good Design as set out in PPS 1</p> <p>39 - See comment 12.</p>
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			<p>40. Careful and further consideration should be given to this clause and the weight that will be awarded to ‘promoting’ economic development over ‘furthering’ sustainable development. Sustainable development is at the heart of the Regional Development Strategy and it is important that the regional framework guides how the elements of economy, society and environment complement each other to achieve this and to ensure that the conflict between the three elements does not impact negatively on the aspirations of sustainability.</p> <p>41. 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 inclusion of this clause within the Bill will add a further</p>		<p>40 - See comments 9 and 12.</p> <p>41 - See comment 9. PPS4 ‘Planning and Economic Development’ sets out the Department’s planning policies for economic development uses and indicates how growth associated with such uses can be</p>
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			<p>layer of legislation which is unnecessary and will result in further confusion and challenge. 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. While RTPI is very much in favour and supports the concept of promoting economic development, there is further work needed to ensure that this will not be at the detriment of sustainable development and more information is required as to how this will be controlled, particularly post RPA.</p> <p>In light of these concerns and the importance of both economic and sustainable development it is proposed that the relevant clauses should be included:–</p> <ul style="list-style-type: none"> • ‘The core function being furthering sustainable development through the promotion of economic, 		<p>accommodated and promoted in development plans. It seeks to facilitate and accommodate economic growth in ways compatible with social and environmental objectives and sustainable development. For the purposes of PPS4, economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B ‘Industrial and Business Uses’ of the Planning (Use Classes) Order (Northern Ireland) 2004</p>
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			<p>social and environment objectives’</p> <ul style="list-style-type: none"> • Uniting the important elements rather than allowing for the opportunity to differentiate between them. <p>(RTPI)</p> <p>42. Currently absent from the Bill is an explicit aim and objective linked to peace building. For that reason, CRC seeks an additional provision in the Bill under clause 2 (1) to place an additional duty on the Department and the planning appeals commission to promote shared spaces. The Bill should be revised to contain:</p> <p><i>(d) promoting shared, safe and welcoming spaces.</i></p> <p>The above amendment should be replicated in Clause 2 (2) (a), and Clause 2 (3) (a), after ‘promoting economic development’.</p> <p>CRC seeks a further amendment under clause 2 (1A) “to enhance the current duty on the department, or</p>		<p>42 – This is best dealt with through Sustainable Development. The Department is committed to proactively promoting shared, safer and welcoming places through the planning system on a number of fronts: As project partners in the QUB Peace III Project ‘Planning for Spatial Reconciliation’: Working with key stakeholders likely to be impacted by the transition process leading up to the transfer of planning powers to the new</p>
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			<p>the commission in regards ‘to the desirability of achieving good design’’. The Bill should be revised as follows:</p> <p>(1A) For the purposes of paragraph (1) the Department or, as the case may be, the commission must (in particular) have regard to the desirability of achieving good design, ADD: <i>‘which also promote shared use’</i>.</p> <p>This addition should be replicated in Clause 2 (2) (b) and Clause 2 (3) (b). (CRC)</p> <p>43. We recommend amending the Planning Bill to remove provision for the promotion of good design and sustainable development, while ensuring they remain strongly promoted within relevant planning policy guidance.</p>		<p>councils –;</p> <p>Contributing to dialogue on the development and introduction of a new style of Spatial Planning legislated for in the Planning (NI) Act 2011, and;</p> <p>Channelling into work by PPD on the preparation of a single strategic planning policy statement</p> <p>In addition, the Department is bringing forward a new urban design manual to assist in strengthening city and town centres.</p> <p>43 – Sustainable Development and ‘good design’ are important to the planning system and supported by the previous Assembly in 2011 Planning Act.</p>
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			<p>44. We recommend that the promotion and review of the economic benefits of a development should remain within the Planning Bill given the net effect it can have on NI as a whole. (ASDA)</p> <p>45. We recommend that the Planning Bill is amended to limit the period for submitting representations to a reasonable time period at the beginning of the planning application process.</p>		<p>44 Noted.</p> <p>45- This does not relate to Clause 2. However, the 1991 Order allows for a minimum period for representations. However case law has determined that all representations received up to the time that the Dept is making its final determination should be considered. This approach fits the Departmental policy that the public must be given ample opportunity to participate.</p>
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			<p>46. We recommend that Planning Bill is amended to provide for a fixed timescale for determining a planning application, as this would provide certainty for developers.(ASDA)</p> <p>47. WT would 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 and protects our natural environment rather than damages it.</p> <p>48. The UK Government's National Planning Policy Framework includes specific mention of the need to protect Ancient Woodland, and we urge the Committee to consider inclusion</p>	<p>46 -. This does relate to Clause 2 however, the Department has set its targets in its business plan. Any applicant has the right to make a non-determination appeal under Article 33 of the 1991 Order (within eight weeks) if a decision is not made within a specified timeframe.</p> <p>47 - See comments 1 and 9.</p> <p>48 – Noted. This is a matter for policy rather than legislation.</p>
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			<p>of a similar statement of intent within the legislation.</p> <p>49. “planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland”.</p> <p>50. In respect to Northern Ireland, we would state that this should cover all woods as listed on the Ancient Woodland Inventory. (WT)</p> <p>51. Lecale Conservation believes that the answer lies in continuing to place the principles of sustainable development (which are already enshrined in the 2011 Act), at the heart of the</p>		<p>49 - These issues would be key material considerations in the determination of planning applications. PPS2: Planning and Nature Conservation sets out the Department's land-use planning policies for the conservation of our natural heritage.</p> <p>50- Noted this is a matter for policy</p> <p>51 - Noted see comment 1.</p>
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			<p>planning system.(LC)</p> <p>52. The objectives of sustainable development and improving well-being represent what is best in the NI system. They are our system's intellectual capital. They have served NI better and represent a much more valuable asset than the clause proposed, which sends the industry the wrong message, and will encourage what is worst and most dangerous in it. The Department must rethink this.</p> <p>53. All the proposed amendments should be dropped, bar the introduction of an emphasis on good design, which is not however appropriate to this clause, and should be introduced in less aspirational form elsewhere. The wording of the 2011 Act and the 1991 Order should remain unchanged. (BMRG) (CIEH)</p> <p>54. Clause 2 - Sustainable development must mean what it implies and not end up</p>		<p>52 - See comments at 1 & 9.</p> <p>53 - See comments at 1 & 9.</p> <p>54 – See comments at 1 & 9.</p>
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			<p>destroying the ecological balance of the environment. The effects on the environment must be given substantial weight in the decision making Process. The Planning Bill should therefore be reworded to provide clarity.(FT) (WHJ) (SBPG) (LS)</p> <p>55. 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 from the foundation of decision making in our planning system, and clarity of this term would negate any need to include specific clauses</p>		<p>55 - See comment 1.</p>
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			<p>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’.</p> <p>56. 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’).</p> <p>57. Economic Development - 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 submissions will inevitably be convincing (and bias) in favour of the development they are proposing / promoting. However it is unlikely that the authorities</p>		<p>56 - See comments 1 & 9.</p> <p>57 - See comment 19.</p>
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			<p>will be furnished with balanced counter economic arguments or data when reaching decision on economic matters.</p> <p>58. 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.</p> <p>59. ‘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? (LINI)</p> <p>60. NIRIG supports the establishment of a statutory duty towards sustainable development, promoting or improving well-being, and promoting economic development. NIRIG feels that</p>		<p>58 See comment 12.</p> <p>59 Noted. The SPPS will elaborate on this for Planning.</p> <p>60 Noted.</p>
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			<p>this is consistent with PPS18, and appreciates that, in practice; all current planning decisions balance these competing considerations anyway. (NIRIG)</p> <p>61. The comments in respect of this Clause are that ‘good design’ needs to be clarified. Is the estimation of good design dependant on the environment or other factors? ‘Good design in terms of the building itself or the local setting?’ Also in the current economic climate would this provide a constraint on ‘good design?’</p> <p>62. It is not clear what ‘promoting economic development’ means? It is also not clear as to where economic advantage would take precedent over the environment? All of this would seem to depend on what tests are going to be applied by the Department and what weighting given to the considerations raised. Policy guidance would be useful and</p>		<p>61 Further details will be set out in SPPS and guidance. See also comment 17.</p> <p>62 See comments 9 &12. This will also be addressed in the SPPS and guidance.</p> <p>As regards design evaluation; professional planners have the skills required to carry out such</p>
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			<p>yet it is understood that the Department is minded to rationalise policies and that would surely lead to less consistency to the application of Planning in the future. It is not clear how consistency will be achieved after the handover to Councils in the absence of policies. There is also an issue as to whether all these aspects identified in the Bill are considered to be equal? If, for instance, economic development is singled out how will it be assessed and by whom? Will it take precedent over the other matters? There is also the presumption that in order to evaluate design there would be a design ability required by those carrying out the assessment. Have any stipulations been made regarding the qualifications and experience of those who would be making these judgements. Concerns have also been expressed as to whether economic development emphasis would take precedent over issues such as conservation and heritage or benefits to</p>		<p>assessments and can draw on architectural expertise if necessary. See also response to Issue 17.</p>
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			<p>society. The concept of ‘promoting well-being’ needs further clarification – what are the criteria for ‘well-being’ and who decides how or whether these are met?</p> <p>63. A clear definition of ‘sustainable development’ should negate the need to include a further objective of ‘promoting economic development’ (ABCNM) (NIEL) (LINI)</p> <p>64. We welcome amendments designed to enhance the environment and strengthen the planning system including an amendment to the general functions of the Department and the Planning Appeals Commission to exercise certain roles with the objective of furthering sustainable development. (BBC)</p> <p>65. How is the promotion of economic development’ defined (for whom, and on what timescale)? Who determines</p>		<p>63 See comment 1.</p> <p>64 Noted.</p> <p>65 See comments, 1, 9 & 13. This will be set out in more detail in policy and guidance.</p>
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			<p>what it is? Who assesses it? In light of these questions, the clause seems to increase scope for (and even invite) litigation, leaving the system open to legal challenges by any who are refused development permission or those who object to specific applications. A true economic valuation of natural capital / ecosystem services within NI would support economic development as well as promoting an educated and responsible attitude toward the environment. An understanding of this, along with ‘sustainable development’ should be reflected in the Bill.</p> <p>66. If economic factors are to be given particular emphasis, and thus potentially more weight, the precautionary principle (PPS1, paragraph 13) is likely to be ignored. Failure to comply with the precautionary principle as set out in PPS 1 could lead to legal challenges.</p>		<p>66 See comments 1, 9 &13 and also comments on clause 6.</p>
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			<p>67. Clarification is required on the difference between ‘furthering’ and ‘promoting’; is there a ‘hierarchy’, or what is the difference in emphasis?</p> <p>68. ‘Good design’ needs further clarification – what are the criteria and who decides? Does ‘good’ refer to aesthetics, function or both? While we are aware of multiple design guides in NI, there needs to be clarity on which carries the most weight.</p> <p>69. NIEL suggests the following wording for clause 2(a): “(1) Where the Department or the Planning Appeals Commission exercises any function under Part 2 of this Part, the Department or, as the case may be, the Commission, must exercise that function with the objective of furthering sustainable development, which secures:</p> <ul style="list-style-type: none"> • Protection and enhancement of 		<p>67 See comments 1, 9 and 12. This will be addressed in SPPS and guidance.</p> <p>68 See comment 17.</p> <p>69 See comment 1.</p>
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			<p>the environment;</p> <ul style="list-style-type: none"> • Economic prosperity; and • A strong, healthy, just and equal Society”. <p>(NIEL)</p>		
			<p>70. The UK Sustainable Development Strategy identifies 5 guiding principles – Living within environmental limits; ensuring a strong, healthy society; achieving a sustainable economy; promoting good governance and using sound science responsibly. FFAN supports these principles and recommends that they are set out in Clause 2 along with suitable detailed policy and procedures to ensure their implementation in practice.(FFAN) (RSPB)</p>		<p>70 See comment 1.</p>
			<p>71. A policy approach through the modification of PPS1 may be a more appropriate mechanism through which to introduce the desire to promote economic development – rather than primary legislation.</p>		<p>71 See comment 9.</p>

			<p>72. The Bill should be re-worded to make it clear how economic benefits will be measured, or to provide a list of criteria with local government to ensure regional consistency.</p>		72 See comment 9.
			<p>73. Of some concern is the fact that, following the consultation process in support of draft Planning Policy Statement 24 'Economic Considerations' in January 2011, the Minister determined not to adopt the policy. This clause suggests a change in that stance, and this needs to be clarified. (NILGA)(ABC)</p>		73 See comment 16.
			<p>74. An understanding of the high level Brundtland definition and these principles must be reflected within the Planning Bill, and in particular, the definition of sustainable development.</p>		74 See comment 1.

			<p>75. Paragraph 8 of the National Planning Policy Framework (NPPF), (March 2012), expresses this balance succinctly. The balancing of these objectives is further recognised in Paragraph 35 of Scottish Planning Policy.</p>		75 Noted. See comment 1.
			<p>76. The inclusion of a robust definition of sustainable development within Clause 2 would negate the need to include a further economic sub-clause.</p>		76 See comment 1.
			<p>77. Clause 2 clearly places economic development head to head with sustainable development, and could therefore be subject to differing interpretation by subsequent, Ministers, Planning Officials and Local Councils.</p>		77 See comment 9.
			<p>78. The scope for interpretation is further compounded by the use of the wording ‘furthering’, ‘promoting’ and ‘improving’ within the clause. Such scope for</p>		78 See comment 12.

			<p>interpretation and potential ranking could lead to a rise in the number of challenges, where the nuances of each of these verbs are debated at length, thereby potentially slowing down the planning system – contrary to the objectives of planning reform.</p> <p>79. The rewording of Clause 2 to include a robust definition of sustainable development, and deletion of the economic sub-clause would not only remove any future potential ambiguity and confusion with regards to weight or ranking, but create a planning system for the purpose of achieving sustainable development. (RSPB) (CNCC)</p> <p>80. CNCC believe that the changes proposed in Clause 2 (&6) set a very different framework for the consideration of planning consents for major developments that would require an EIA. At the very least we consider that there should be a screening</p>		<p>79 See comment 1.</p> <p>80 See comments 1 & 9.</p> <p>Clauses 2 and 6 do not change the Department's policy on the requirements to consider all material considerations in</p>
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			<p>process to assess any likely effects, as was carried out with the Regional Development Strategy, and that such a process should take place before any change is introduced.(CNCC)</p>		<p>determining planning applications. The statutory requirements in relation to EIA developments must be adhered to.</p>
			<p>81. This Bill makes the requirement to consider economic matters an unnecessarily cumbersome one which introduces an element of time-consuming and inappropriate duplication, as the requirement to consider economic matters in a balanced way is already built into the Planning Act 2011 through the duty to ensure that sustainable development is furthered (in Clauses 2 and 5 of the Act). We would oppose these proposed changes.</p>	81	See comment 9.
			<p>82. Clause 2 also widens the requirement to take account of policy pronouncements from the Office of the First Minister and deputy First Minister beyond those on the issue of sustainable development. This would need</p>	82	Noted.

			<p>to be handled very carefully; if OFMDFM was to issue a pronouncement favouring economic development considerations in planning issues, this could exacerbate the problem referred to above. (BCAW).</p> <p>83. Clause 2 amends the general functions of both the DoE and the Planning Appeals Commission by adding the objective of 'promoting economic development' alongside the objectives of 'furthering sustainable development and promoting or improving well-being'.</p> <p>84. We are strongly opposed to the inclusion of this additional clause. It would be much more appropriate to include in this Bill a clear definition of sustainable development. If the Bill provided a clear definition of sustainable development – which includes economic development alongside social</p>		<p>83 Noted.</p> <p>84 See comment at 1.</p>
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			<p>and environmental concerns – there would be no need for a further, separate duty in relation to economic development. We therefore recommend that the clause should be dropped.</p> <p>85. An alternative approach would be to expand the wording in the clause to include a fuller and balanced statement of sustainable development, e.g.:</p> <ul style="list-style-type: none"> • The Department or Planning Appeals Commission ‘...must exercise that function with the objective of furthering sustainable development which secures: • protection and enhancement of the environment; • economic prosperity; • a strong, healthy, just and equal society.’ <p>86. There are other good reasons to drop this clause: It elevates the promotion of economic development to a <u>statutory</u> duty for all aspects of planning which would require the Department to</p>		<p>85 See comment at 1.</p> <p>86 See comment at 9.</p>
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			<p>promote economic development as a specific objective of the planning system. We believe this is inappropriate and goes beyond the purpose of planning which is clearly set out in PPS1 General Principles.</p> <ul style="list-style-type: none"> Any focus on economic development should be dealt with in planning policy which is more readily reviewed, rather than in legislation. <p>87. Adding an explicit economic clause will increase the weight applied to economic development at plan making and development control stages. While we note that the Minister asserts this is not the intention (Planning Bill Second Stage debate, 22 January 2013), the wording creates this expectation and is clearly open to this interpretation in the future.</p> <p>88. As currently drafted, decision makers will be faced with having to balance and weigh up promoting economic</p>		<p>87 See comment at 9.</p> <p>88 See comment at 9.</p>
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			<p>development, promoting well-being and furthering sustainable development (which properly includes the first two, along with environmental concerns). Does this mean that economic considerations should be factored in twice? The complexity and lack of clarity introduced is likely to lead to more appeals and legal challenges. (NT)</p>		
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