

# WRITTEN MINISTERIAL STATEMENT

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## Environment

### PLANNING — PREPARING FOR 2015

*Published at 4.00 pm on Wednesday 29 January 2014*

**Mr Durkan (The Minister of the Environment):** In my October statement to the Assembly on the Planning Bill I affirmed my commitment to driving forward reform of the planning system including the transfer of the bulk of planning powers to councils in 2015.

I wish to make a written statement to outline my vision for the planning system as we move towards transfer next April. I also want to set out my agenda for delivering what I believe will be key improvements to the system. Improvements which will create a system which is less complex, more effective, more efficient and more customer-focused, without compromising on environmental standards.

I want to create a better environment and a stronger economy. My aim is to create a planning system that works to achieve this. A system that is fast, fair and fit for purpose. One that delivers for business - with timely decisions that bring investment and jobs but not at the expense of our environment, planet or people. A system which realises that the environment and the economy should not, and cannot be, at loggerheads. A system that fully recognises that a vibrant, sustainable environment can be a driver of prosperity and job creation. Similarly a strong economy and a prosperous society can be good for the environment. I am committed to do things differently and better.

This is an exciting and challenging time for planning. In just 15 months, our new 11 councils will be responsible for drawing up their own development plans, making the majority of planning decisions and shaping how their areas will grow and develop in a way that responds to the needs of their local communities. It is my job to ensure that we transfer planning as seamlessly as possible. That we ensure that the new system is in the best possible shape for transfer. To do this there are 5 key actions I want to focus on to bring the new system to life over coming months.

#### **Key Actions**

1. I want to shorten and simplify policy. Move to a single Strategic Planning Policy Statement (SPPS) rather than 20 separate policy publications – aiming for 100 pages of policy compared to some 800.
2. I want to initiate key reforms to the planning system. While the Planning Bill, as originally intended, would have allowed many of these to be delivered on a legislative basis, there are measures that can be set in place without legislation, such as new local development plan preparatory work, setting in place the new hierarchy of development arrangements, extending pre-application discussions and encouraging more widespread pre application community consultation. Better informed applications will be processed quicker.
3. I especially want to tackle response times from consultees - particularly those from the Northern Ireland Environment Agency (NIEA) within my own Department. I intend to

therefore bring forward statutory consultee response times to remove delay in the process so that we deliver faster decisions

4. I want to improve customer service and access to case officers, and
5. I want to ensure all those with responsibility for delivering the new system have the capacity to do so.

## **Benefits**

These measures will benefit all users of the planning system. Communities who want to input in a genuine and meaningful way to development plans for their areas, and who want to be consulted before applications are submitted by developers will benefit. Also developers will have more certainty in terms of speedier decisions and outcomes. The environment will benefit from better informed decisions. The Department will benefit in the short term but councils too will reap benefits in the longer term through improved efficiencies and performance.

I also want to challenge all those involved in the planning process – developers, planners, councils, communities, environmental groups, professional bodies to help me deliver my vision for the new planning system.

## **Recent performance**

Before considering in more detail the actions for improvement I would like to acknowledge the work of my predecessor and the Department in delivering quicker decisions and providing greater certainty and outcomes for managing applications, than previously.

Improvements have been evident in all categories of applications. Over the most recent quarter, the average processing times for Major, Intermediate and Minor categories of planning applications reduced by four, two and one week respectively compared to the equivalent quarter in 2012/13. Article 31 applications have reduced by more than 50% in the last 18 months. There were 60 and there are now less than 30. I want to clear more Article 31 cases and to continue to exceed the 6 month target for large scale investment decisions.

Since I took up office the Department has made several major decisions and done so quickly:

- Biogas Combined Heat & Power Plant Newtownabbey 6 weeks (November)
- £2.5m storage, 7 distribution centre Newtownabbey , 3 months (November)
- 48 bed extension and new leisure centre Galgorm Manor less than 2 months (November)
- £20m data hub Coleraine based on innovative communications infrastructure linking Northern Ireland to USA & Europe, 2 months (October)
- £12m Forensic Science Lab Carrickfergus, less than 4 months (August)
- Young people's indoor safety village Belfast 6 weeks (September)
- In addition I have made decisions on a number of Article 31 applications, including:
  - A mixed use development at Glenmona in West Belfast;
  - The redevelopment of the former Crepe Weavers factory site in Newtownards;
  - The redevelopment of Casement Park; and
  - £85 million energy from waste gasification plant at Bombardier Aerospace

I do acknowledge, however, that there are those who believe that the Department is not doing enough to improve the planning system. I readily accept that more needs to be done. I recognise that the planning system can, and should, do much more to unlock development potential, support job creation and aid economic recovery.

I have met with, and listened to, those running, wanting to expand and trying to set up businesses in NI, environmental groups, communities, the public among others. I told them I wouldn't just listen, I promised I would listen and act on their feedback. I hope I have demonstrated that I am prepared to listen to views and make difficult decisions.

As I listen, one of the issues I hear most is the need for greater certainty. Certainty in terms of the timescales for processing applications to decision – be it a yes or no; certainty of the policy context so stakeholders will know what is likely to be acceptable or unacceptable; certainty that the views of local communities will be sought and considered in a meaningful way and certainty that the planning system that will transfer to councils in 2015 will be fair and fit for purpose.

There are a number of key actions I intend to deliver.

### **ACTION 1 - Strategic Planning Policy Statement (SPPS)**

Firstly, I want to shorten and simplify policy. I intend to bring forward a new draft single Strategic Planning Policy Statement. This will ensure we have a policy framework which reflects the aims and priorities for planning and provides better clarity and certainty for all users of the reformed planning system.

The SPPS is an essential, key element of the broader planning and local government reform programme that will assist in the transition to the two tier planning system in 2015. It is strategic in nature and provides the context for detailed operational policies to be brought forward by new councils within future local development plans.

It will be a relatively short and concise statement of planning policy. The emphasis will not merely be on consolidating into one document the strategic elements of extant policy but critically on improving it.

It will also set out the core planning principles to underpin delivery of the reformed two-tier planning system from April 2015 including promoting sustainable development, well being and shared space. In addition, the SPPS will bring forward new strategic policy relating to town centres and retail.

The draft SPPS will issue for public consultation in early February and be published in final form in good time before planning functions transfer.

### **ACTION 2 - Planning Act reforms**

Secondly, as we move towards the implementation of the Planning Act 2011, I want to bring forward as many of the reforms contained within it in advance of the transfer. I firmly believe that moving quickly towards mirroring the new structures that will be in place from 2015 and implementing the reforms, will individually and collectively provide a real opportunity to speed up decision making. It will also provide greater certainty for applicants, and enhanced community involvement.

### **Preparatory work on local development plans**

Planning decisions should be taken against a framework of up to date and effective development plans and supplementary guidance. Again that provides greater certainty to investors, applicants and communities. I am now establishing Area Plan teams to commence preparatory work on local development plans for all the new council areas. This work will involve close working with statutory transition committees and in due course new shadow councils. This will allow the new councils to move quickly to bring forward their own development plans once they become the planning authorities next year.

### **Hierarchy of Development**

I want to put in place the new development management approach as set out in the 2011 Planning Act. This incorporates a 3-tier hierarchy of development (consisting of local, major and regionally significant) so that greater resources can be directed at those applications with economic and social significance, through more proportionate decision making mechanisms tailored to the scale and complexity of the proposed development.

All major and local developments will be dealt with by councils under the new planning system. Major developments will be subject to pre-application consultation with the community. Regionally significant development proposals will also be subject to pre-application community consultation and will be determined by the Department.

Over coming months, I will consult on the legislative thresholds for the 3 categories. However, in the interim I have instructed officials to put the hierarchy arrangements in place as soon as possible, well in advance of the transfer of planning functions to councils. Alongside this I will be bringing forward, in consultation with local government, a new performance management regime and redefined targets to align with the hierarchy.

I have also asked for specialised multi-disciplinary/multi-agency teams to be set up and deployed across the new clusters to actively manage major applications drawing on consultee expertise and with appropriately trained planners with knowledge of property, finance and commercial issues. Essentially I'm cascading the model used for regionally significant applications, including pre application discussions and pre application community consultation to a more local level.

I am also looking creatively at how we deal with particular pressures on the development management system. I have appointed retail consultants to assist in the assessment of Article 31 retail applications that are particularly labour intensive.

### **Pre-application discussion**

I also want to continue frontloading the planning system by encouraging developers to engage in pre application discussions both with the Department and communities affected by the proposal.

I am therefore introducing new arrangements for pre application discussion (PADs). The best way to ensure a quick planning decision is to discuss proposals with the Department at the earliest opportunity before making an application. I intend to adopt a new approach. For smaller scale applications, applicants will be encouraged to call in to their local office for an informal discussion. On large, economically significant projects the Department will facilitate a more formal round table discussion involving all the relevant agencies depending on the nature of the scheme. This will help applicants to submit applications with all the necessary information addressing all the planning issues. I intend to launch new PADs guidance shortly.

### **Pre application community consultation**

I will also be encouraging applicants for major developments to engage in meaningful consultation with the community affected by the development before submitting their application so that the views of local people can influence the scheme. This worked particularly well for example in the Windsor Park stadium redevelopment application - this application was processed in 11 weeks.

### **ACTION 3 - Improving consultee performance**

Thirdly, I want to reduce response times from consultees, particularly those from within my own Department notably NIEA.

I am fully aware that the time taken to conclude consultations with key consultees is seen by many as a key cause of delay in the development management process. I intend to put in place measures to improve the performance of consultees so that sound decisions are made more quickly delivering decisions to support economic recovery and sustainable development.

As part of the implementation of the 2011 Planning Act I will provide greater clarity and certainty for the consultation process. For the first time, identified consultees will be statutorily required to provide

a substantive response to a consultation request from a planning authority within a specified timeframe and to report on their performance in meeting their duty to respond.

All future consultation responses will have to be “substantive” providing sufficient information to allow the application to be determined. A holding response will not be regarded as meeting the requirements of the duty to respond. I believe this new element of the system will be a valuable opportunity to identify any difficulties or bottle-necks in the system but also to identify good practice. The annual reports produced by consultees in England provide a good example of how this system can work to identify opportunities for improvement going forward.

### **NIEA performance**

NIEA has a critical role as a consultee on many planning applications. All NIEA consultee input will meet the new statutory timelines when they come into effect.

In the interim, NIEA will conduct a series of ‘Backlog Blitzes’ to clear outstanding planning consultations, with the first two being;

- All ‘brownfield site’ consultations greater than 12 months will be cleared by the end of March and the remainder of the backlog will be cleared by the end of June;
- 95% of all ‘natural heritage’ outstanding consultations (currently 230 applications) will be cleared by the end of March.

On the 1<sup>st</sup> of February, NIEA will establish a Planning Control Team which will:

- assign a single contact officer for all NIEA planning consultations. This will make it easier for applicants to get co-ordinated negotiation and advice from NIEA;
- develop new protocols for how the different sections of NIEA will streamline and improve their planning consultation processes.

NIEA will also start a series of projects with industry sectors to agree ways for NIEA and businesses to work together during the pre-applications phase, starting with:

- A *Contaminated Land* conference on 25 March for property development, construction sectors, councils, NIEA and others.
- Similar workshops will be conducted with the agri-food and renewable sectors in April

### **ACTION 4 - Improving customer service and applications.**

Fourthly, I want to improve customer service. Speed of decision making is not the only measure of a quality planning system. It is also important to focus on customer needs. Therefore I want to improve customer service by listening to customer needs and responding to their requirements. In particular, I intend to improve direct telephone access to planners.

### **Better applications**

It is important to remember that responsibility for improvement does not only rest with the planning authority and consultees. It has to be a collaborative approach. An efficient, effective, fair and fit for purpose planning system can only be delivered if all stakeholders work together. I am challenging my department but I am also laying down a challenge to applicants and agents to engage in pre application discussions and submit good applications. The Department will support those that have put in the time to submit good applications and reject badly prepared applications.

Therefore, applicants and developers need to play their role in ensuring quality, soundly based applications are submitted. And, in return, they can expect quicker decisions. Better performance based on better, comprehensive and complete applications is the way forward.

Poor applications with incomplete or low quality information clog up the system. DOE planning officers and consultees spend time going back and forward with these applicants seeking more and better information. This diverts our time and energy from dealing with good quality planning applications.

## **ACTION 5 - Preparing for Transfer**

### **Capacity Building and Training**

As well as improving the existing planning system in preparation for the transfer, I am also committed to helping councils get ready to receive their new powers. It is, therefore, vital that the new councils, and councillors, have the skills, knowledge and capability to deliver the new planning system and a mandatory code to follow. It is essential that everyone is properly prepared and aware of their role and responsibilities. Future decision makers must, for example, understand the delicate balancing act between environmental and economic considerations in development planning and development management. They must also appreciate the need for prompt, sound decisions.

Last year Executive funding of £3m was secured for capacity building and training. This money will ensure that essential training for councillors who are involved in making planning decisions can be carried out in good time and will mean that they are well equipped for, and have the confidence as well as competence to make, sound planning decisions right from day one.

The requirement for councillors to understand the planning process and the new role they will play in it will form a very important part of the capacity building programme that I have instructed officials to develop. The programme will ensure that councillors will be better equipped and better placed to deal with planning issues; from deciding planning applications through to the ethical standards and Code of Conduct they will be required to adhere to.

Working in partnership with a range of stakeholders, the action plan to deliver the overall capacity building and training programme will be rolled out during 2014 and right up to the point of transfer. Planning-specific training and relationship building at a local level between councils and area planning offices has already begun.

### **Checks and Balances, Audit and Performance Management**

It is important that central government has an appropriate oversight role to ensure regional policies and objectives are implemented and that a consistent approach is applied to planning across the region.

The role of audit, inspections, performance management and monitoring of the planning system will also be critical in ensuring that planning functions are carried out and are seen to be carried out in a fair and consistent manner and that best practice is applied across the new district councils.

The 2011 Planning Act allows the Department to conduct an assessment of a council's performance and how a council deals with applications for planning permission. The Act also contains a range of oversight and intervention powers.

### **Performance Management**

In terms of performance management, my Department will continue to work with local government to develop a system of performance management for planning. While much of this detail will be contained in guidance, the Local Government Bill, currently before the Assembly, provides enabling powers to allow the Department to set performance indicators and performance standards. If a council fails to comply with performance requirements the Department has powers to intervene.

### **Code of Conduct**

When exercising their new decision making powers in respect of planning, councillors will be required to observe a mandatory Code of Conduct, which the Department is drafting and will issue for public consultation in the next few weeks.

This Code will include specific references to how councillors should conduct themselves when dealing with planning matters. The Code will be accompanied by detailed supplementary guidance to advise councillors on what they can and cannot do with regards to planning.

The guidance will deal with matters such as: lobbying of and by councillors; recommendations made by planning officers; councillors' personal and prejudicial interests; decisions contrary to an officer's recommendation; decisions contrary to the development plan.

Allegations of breaches of the code may be investigated by the Commissioner for Complaints and, if the Commissioner finds that **a breach has occurred, sanctions may be taken against the councillor**. The Code and guidance will offer protection to councillors executing planning duties and assurances to the public about councillor conduct.

### **Communication**

There is also a need for enhanced public understanding of the changes to planning services. A Communications strategy is guiding the timely publication and dissemination of information through a range of media, including bulletins, articles and events.

### **Resources**

The transfer of planning will only be successful with the right resources in place. I am, working to ensure the smooth transition of staff from central to local government. Work force models have been developed to inform the staffing levels required in each of the new councils.

### **Conclusion**

I believe this package of measures will ensure that a fast, fair and fit for purpose planning system transfers to councils in 2015, and continues beyond, for the benefit of all. I also believe this package will provide certainty to investors and ensure that planning plays its full role in supporting economic recovery and sustainable development without compromising on environmental standards.

Over coming weeks I will issue the SPPS for consultation, progress the other actions and continue to press ahead with determining key planning applications.