

Final Response – to the review of the ‘Review of Planning: Call for Evidence’

- **Hear your views on the effectiveness and timeliness of planning decisions for Regionally Significant Projects;**

The Council is of the view that planning decisions for regionally significant projects (RSP) is neither timely nor effective.

The Northern Ireland Planning Statistics for Northern Ireland indicates as of Quarter 3 – 2025/2026, year to date, two regionally significant applications have been decided with an average processing time of 109.4 weeks. Other RSP remain under consideration despite being in the system for many years.

In the Council’s experience, there have been significant delays associated with determining and implementing RSP, such as the new A5 WTC and the A4 Enniskillen Southern Bypass.

The delays in the implementation of these projects have significant and wide spread implications for local communities, including significant road safety issues and economic disadvantage for the FODC area due to limited connectivity. Prolonged uncertainty also reduces developer and investor confidence.

There are a number of key concerns in the Councils view, which contribute to these delays.

Complexity and scale of applications

RSP are inherently complex, often requiring extensive Environmental Impact Assessment (EIA), consultation with multiple statutory consultees, and trans-boundary considerations.

There have been there have been instances where procedural issues have arisen, contributing to extended timescales.

Consultee performance

The performance of statutory consultees, such as the Northern Ireland Environment Agency is having a significant impact on processing times for planning applications, including RSP such as renewables. The issues are long standing, however to date there has been limited progress in addressing these issues by NIEA.

Thresholds for Regionally Significant applications

The thresholds for determining RSP is no longer fit for purpose, and despite DfI undertaking a review, new legislation has still not come forward.

This results in projects being classified as RSP when in reality they are not, and as a result these should be dealt with by Councils and not DfI. The main area of

concern to the Council is the thresholds for electricity generating development (renewables).

There is an opportunity through the review of these thresholds to be ambitious, so that the majority of applications are dealt with by Councils, through streamlined processes and procedures.

Call in delays

The majority of planning powers transferred to Councils in 2015. However, there are a range of oversight powers available to DfI, which in effect remove these powers.

Section 29 (1) of the 2011 Act allows the Department to direct that an individual application or applications be referred to the Department instead of being dealt with by a council. This provision allows the Department to call in any planning application for determination. The Department's direction may be given under Section 29(2)(a) to an individual council or to councils in general and, under Section 29(2) (b), may relate to either a particular application or a specific use class.

Related to this is Article 17 of the Planning (General Development Procedure) Order (NI) 2015, which provides DfI with the power to issue directions restricting the grant of permission.

DfI consideration of call in, can be a prolonged period of time and result in significant delays to an application.

Overall, this element of legislation, when engaged will often delay major developments, prejudicing investment and the delivery of housing and economic growth.

These provisions should be reviewed, to ensure that Councils retain the full powers that were conferred on them in 2015.

Deficiencies in application submissions

In the experience of the Council planning applications for RSP, have been submitted with a lack of information and assessment of key matters such as the environment and climate change. This results in significant delays and an ongoing cycle of applicants submitting further tranches of information to address these deficiencies.

The legislation needs to be robust to prevent deficient applications being submitted and progressed through the system, on a reactive and ad hoc basis.

Judicial Reviews

The A5 WTC has been the subject of a number of successful legal challenges which has delayed implementation of this flagship project, which is of overriding public interest. This is dealt with in more detail below.

Local Public Inquiries

Procedures for inquiries are not sufficiently robust to restrict the submission of further tranches of information from applicants as outlined above. However, following the receipt of new information, the procedures do not offer an appropriate opportunity for other participants to respond to this new information, and this results in delays and inquiries not running effectively.

Infrastructural constraints

Wastewater treatment capacity issues across all Councils is a significant barrier to the delivery of RSP. These issues are well known and there is no need to repeat them in detail here, but there is a need for DfI and NI Water to identify a solution quickly.

- **Hear your views on Judicial Reviews of planning decisions on major capital projects;**

The Council acknowledge that Judicial Reviews (JRs) are a critical part of ensuring lawful decision-making, but they have significant implications for RSP delivery.

The A5 WTC which was first proposed in 2007 has yet to progress to construction. There have been a number of successful legal challenges to the project and ongoing appeals and litigation continue to create significant uncertainty and delay.

Progress on other schemes, such as the A4 Enniskillen Southern Bypass, is being considered in light of the A5 WTC judgment, demonstrating how delays in one RSP can have cascading impacts across infrastructure delivery.

The current upward trend of JRs results in further delays as decision makers undertake a robust and rigorous process of compliance and more cautious decision making.

JRs have indirect effects on other RSP, as they incur significant Officer time and costs incurred defending decisions. It is evident that the current JR landscape contributes to delay, uncertainty, and resource pressures, particularly for complex capital projects.

This creates uncertainty for investors, developers, and Councils.

- **Hear your views on how planning decisions for Regionally Significant Projects can be improved.**

Fermanagh and Omagh District Council has progressed an ambitious local planning improvement programme, which is now in its 5th phase. This has resulted in significant improvements to planning performance locally.

Call in powers should be removed

Deficient applications

There needs to be clear provision within legislation that prevents ongoing repeated submissions of further information, to address deficiencies, during the processing of an application.

This results in significant delays and expenditure to decision makers.

Statutory Consultee Reform

The Council would encourage the introduction of statutory response times with accountability mechanisms, escalation procedures where delays occur and a greater range of comprehensive standing advice which reduces the number of consultations.

Streamlining updates to legislation (e.g. thresholds for Regionally Significant applications) as this is currently a long and protracted process.

Use of technology, such as AI and GIS platforms.

Judicial Review Reform

The Council would promote consideration of early stage filtering mechanisms for unmeritorious cases and a generally higher test for the grant of leave to challenge decisions.

Where a case progresses, there should be streamlined court processes for infrastructure cases. All this would retain access to justice while reducing unnecessary delay.

Third Party right of appeal

Given the recent increase in JR, the Council recommends that 3rd party appeals should now be introduced. JR result in a huge resource and financial burden on decision makers. They delay major developments, prejudicing investment and the delivery of housing and economic growth.

It is often the only option available to objectors and the provision of 3rd party appeals would provide for an alternative remedy.

The Council would however recommend the inclusion of a mechanism which would ensure that only parties directly involved in the relevant planning applications were eligible to submit appeals.