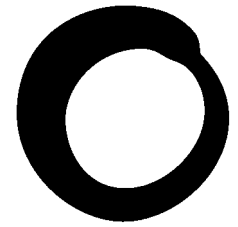


January 2011



**Friends of
the Earth**
Northern Ireland

Consultation response

The Planning Bill

Introduction

The Planning Bill needs significant improvement if it is to deliver a fair, transparent and green planning system for Northern Ireland.

As the basic instrument for planning over the next several years it is important for the future of Northern Ireland that this legislation is not rushed through the Assembly but that its key provisions are scrutinised and deliberated fully by MLAs.

This briefing analyses underlying assumptions behind the Planning Bill and reviews these assumptions against best practice. Friends of the Earth is strongly recommending that the principles of sustainability need strengthening and that people and communities must be able to effectively influence the decisions that affect them. Finally, we must use this opportunity to embrace a planning system that is capable of 'planning' rather than 'reacting' to modern challenges of the low carbon economy.

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- **dedicated to protecting the environment and promoting a sustainable future for Northern Ireland**
- **the UK and Irelands most influential environmental campaigning organisation**
- **the most extensive environmental network in the world, with over 60 national organisations across five continents**
- **a unique network of campaigning local groups working in over 200 communities throughout the UK and Ireland**
- **dependent upon individuals for over 90 per cent of its income.**

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Planning Bill – the need to embrace sustainable development

Many of the assumptions behind the Bill are rooted in an outdated concept of development that fails to meet challenges of the 21st century. These assumptions are reflected in language (for example “survey of district”, “orderly development of land”) which defines planning in terms that are physical, reactive, technical and a model of development that is preoccupied with land use.

Modern and progressive planning goes much further. The planning system in Northern Ireland must be reshaped to meet the needs of a modern economy whilst accepting a much deeper understanding of what we mean by the environment. Planning can address the big issues, helping to create a truly sustainable economic recovery, acknowledging the benefit to people of healthy ecosystems, strengthening civic culture and creating a more balanced society. Planning is a vital public service which coordinates different partners and delivers responses to meet local challenges. This Bill moves in the right direction but in faltering unclear steps.

The following principles should be cornerstones of a vibrant, democratic planning system in Northern Ireland.

- **Sustainable Development** Achieving sustainable development must provide the overarching framework within which the planning system should operate. There must also be an explicit statutory duty on the planning system to secure sustainable development. This has been accepted in many other neighbouring jurisdictions, such as the Republic of Ireland and Scotland. Sustainable development embraces the transition to a low carbon economy and debates around the materiality of economic weight should be assessed in this context. Commitments to sustainable development in the current draft bill are so weak as to be meaningless.
- **Green Infrastructure** Adopting a green infrastructure approach is a strategic way to effectively integrate biodiversity into spatial planning. By enhancing and protecting a network of green space we conserve natural ecosystem functions, wildlife and habitats and provide associated benefits to human populations. Green infrastructure also gives us the spatial evidence base which highlights the value of biodiversity and ecosystem services to the economy and society. These services include the production of food and water, the control of climate, flooding and disease, and supporting nutrient cycles and crop pollination.
- **Climate Change** The planning system has a major contribution to deliver effective action through decision-making on the scale, location, and mix of development. Adaptation is important but much more so is the avoidance of climate change through carbon neutral decisions. Opportunities exist to prescribe minimum standards for micro-renewables, develop carbon neutral design principles, plan for major renewable energy infrastructure and reduce the need for travel, especially by the private car. Northern Ireland is way behind other neighboring jurisdictions. The planning system has so far failed to recognise its overall approach to climate change. A legal duty on climate change is required.
- **Energy Planning** The narrow focus of traditional land use planning must fundamentally shift to embrace energy planning. The planning system must facilitate low carbon energy production by strongly encouraging renewable technology. Best practice in conflict resolution and participation should be developed to ensure that

energy planning at community level does not end up in a consultative cul-de-sac. Planning for renewable energy and low carbon developments should be at the heart of good planning.

- **Well being** Real planning brings together partners to help deliver health and well being. The use and development of parks, open space and access to sports, transport, the arts, and wild space have spatial implications for the way we use land and buildings. Joined-up planning should provide services that contribute to public and private well being as well as providing amenity, a sense of place, and the shaping of convivial places to live.
- **Fair and Open Participation** Communities and individuals must have greater involvement in decisions that shape their lives. Unobstructed access to information, a greater spirit of openness, simple language and participation in decision making are crucial to good planning. Deprived communities must be involved as much as affluent and engaged communities. Transparency in the roles of elected member and official should include strict codes of conduct, declarations of donations to political parties and an effort made to encourage rights of redress by third parties against the grant of planning permission.
- **Strategic oversight** A coherency is lacking in the strategic oversight of planning policy within a clear and obvious hierarchy. Strategic planning is crucial if we are to tackle climate change and energy transition and to coordinate cross border approaches to environmental protection and strategic infrastructure such as grid improvements to secure renewable energy obligations. Greater clarity and coherence is required in understanding the roles of local and strategic planning, especially the relationship between the DoE and DRD. In other words, the overall framework for the plan-making system must have an easily understood legal status.

Three opportunities not to be missed

- **Community Infrastructure Levy** The Bill should include provisions to introduce a Community Infrastructure Levy. This will empower planning authorities to levy a charge on new development so that local communities are supported in the provision of public services such as public transport and environmental and social infrastructure. This levy must be seen as complementary to Article 40 agreements.
- **Third Party Rights of Appeal** There should be an opportunity for third parties to have a right of appeal against the grant of planning permission. The Planning Bill should make all possible effort to incorporate this essential right of redress to improve equality and democratic accountability. When a previous Minister rejected third party rights of appeal, the current Minister for the Environment commented: “I am very disappointed with the Minister's response on this occasion. He must get real on this issue. People are not satisfied with what is currently on offer. He mentions the planning problems experienced by people in business. What about the problems of the individuals whose human rights are being damaged by many large businesses that have trampled and abused the planning system for years? When are those peoples’ rights going to be recognised?”
- **Climate Change Duty** There should be a duty on local decision makers to fully consider climate change in plan preparation and development management. This will help ensure that decisions on applications with a significant carbon profile are informed by an understanding of carbon impacts.

Other recommendations to change the Planning Bill

Sustainable development and well being

The sections on a statutory duty for sustainable development are currently weak and confusing.

- The term ‘sustainable development’ should be defined in the Bill
- The Bill should abandon the general presumption in favour of ‘development’ and replace with a general presumption in favour of ‘sustainable development’
- Part 1 Clause 1 (1) - Remove the words “securing the orderly and consistent development of land” and replace with “delivering sustainable development and well being”
- Part 1 - Identify that the function and role of the Minister for the Environment is to oversee the delivery of sustainable development and well being
- Part 1 Clauses 1 (b) and 5 (1) - Replace “contributing to the achievement of” with “securing”
- Part 2 Clauses 3 (2) - Include the terms climate change, well being, natural resource management and socially balanced communities
- Sustainability appraisals for all planning applications and plans should be included in the Bill and the testing criteria outlined in the Bill

Statements of Community Involvement

These sections in the draft bill are vague and confusing.

- Part 1 Clause 2 and Part 2 Clause 4 - Strengthen these sections with the following commitments: (1) there will be no charge for basic planning information, including copies of the planning application, accompanying maps, environmental statements, and draft plans; (2) established community groups should receive written notification of planning applications; (3) anyone has the right to see the planning file; (4) people directly affected by a plan policy should be notified; (5) the private sector should not be asked to organise pre application consultation – refer also to Clause 27; (6) guarantee public speaking rights at the local authority committee

Plan Hierarchy

Plans must reflect the strategic hierarchy for coherent policy implementation.

- Part 1 Clause 1 (2) (a), Part 1 Clause 1 (3), Part 2 Clause 8 (5) - Replace “general conformity”, “have regard to”, “take account of” with “be consistent with”
- Clearly express the links and a coherent policy hierarchy between the Regional Development Strategy, community planning and all other development plans

Simplified Planning Zones and Enterprise Zones

A more flexible planning system could help facilitate economic development through expansion of renewable energy and the spatial requirements of integrated low carbon energy planning.

- Part 3 Clause 33 - 39 - The justification for these anachronistic zones no longer exist. We are proposing these two schemes should be remodelled as Renewable Energy Zones. These zones would have presumptions in favour of renewable energy with appropriate planning frameworks to deliver strong support for low carbon technologies and low-carbon mixed developments