

The Planning System

A Guide for Community Groups and Individuals

January 2012

Community Places



Introduction

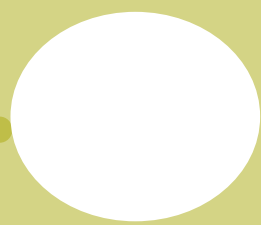
Community Places is a voluntary organisation which provides advice on planning issues to community groups and individuals. We also facilitate community involvement in the planning process and in Community Planning and support communities in developing local plans and proposals for their areas. We publish factsheets on specific planning issues and hold advice clinics throughout the region.

This guide provides information on:

- the planning system;
- the preparation of Area Development Plans and planning policies;
- applying for planning permission; and
- commenting on or objecting to a planning application.

This guide will help community groups and individuals to become more meaningfully involved in planning - whether applying for planning permission themselves or opposing development proposals in their area. It is not a definitive or comprehensive statement of planning law and policy.

Changes are being made to the planning system in preparation for the handover of planning powers to the new local councils. Further details on this are presented at page 16.





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The Planning System

Responsibility for planning in Northern Ireland lies primarily with the Department of the Environment which operates the planning system and has the core function of managing the development and use of land in the public interest throughout the region. The Department's Planning and Local Government Group is made up of a Strategic Planning Division, Policy Division and a Planning and Local Government Division as well as eight local planning offices.

The Department for Regional Development (DRD) is responsible for planning at a regional strategic level and prepared the Regional Development Strategy for Northern Ireland 2025 (Shaping Our Future) which provides a framework for all Area Development Plans and planning policies.

The Department of the Environment has responsibility for three main areas of the planning system:

Planning Policy

Preparation of Planning Policy Statements and production of supplementary guidance.

Area Development Plans

Preparing Area Plans for individual or grouped local Council areas. Occasionally Local Plans and Subject Plans are produced covering smaller areas and planning topics.

Development Management

Assessing and making decisions on planning applications and dealing with breaches of planning control (or enforcement as it is better known).

The Planning Appeals Commission

The Planning Appeals Commission is an independent body. It hears Public Inquiries into Area Development Plans and major planning applications. It also hears appeals by applicants who are refused planning permission.



Regional Development Strategy for Northern Ireland 2025

The Regional Development Strategy contains strategic policy and guidance for the whole region (for example: Meeting Housing Need, Caring for the Environment, Economic Development). It provides a framework for all other policies and area plans must be “in general conformity” with it.

Planning Policy Statements (PPSs)

These statements set out policy on specific planning topics and apply to the whole region (for example: Quality Residential Environments, Housing in Settlements). When preparing Area Development Plans and taking decisions on planning applications the Department of the Environment must take account of Planning Policy Statements.

Area Development Plans

Area Plans cover one or more local Council area for a 15 year period and provide an indication of where, for example, housing, industry and retailing will be located in this period. When planning applications are received they are checked against Area Plans for their suitability.



Preparation of Area Development Plans

What is an Area Development Plan?

Area Development Plans cover one or more local council areas usually for a 15 year period. They take into account all regional planning policies, zone land for different types of use (for example housing, industry, open space, greenbelt and so on) and set out specific policies for these zoned areas.

How are Area Development Plans prepared?

There are six key stages in the preparation of an Area Development Plan:

01 Initial Information Gathering and Research

After announcing the commencement of an Area Plan, the Area Plan Team undertakes information gathering, research on and analysis of a wide range of planning topics, for example housing, industry and recreation. In addition, the initial views of the local Councils, other authorities and public bodies are sought. At this early stage, members of the public are invited (via an advertisement in the local press) to submit their views in writing. Written submissions may include the views of a community group on the planning needs of a community. Groups may also submit the results of a community audit undertaken or their own strategy or plans.

02 Publication of Issues Paper

The Area Plan Team publishes an Issues Paper. This Paper is a discussion document which provides details on the main issues and poses key questions on the future planning of the area. Publication of the Issues Paper triggers the beginning of a 14 week consultation period during which people are given an opportunity to participate in the process and make their views known. Community groups are proactively encouraged to participate in this process through independently facilitated consultation. Groups and other members of the public are invited to meetings and community events to give their views and comments on the Issues Paper.

03 Publication of Draft Plan

In preparing the Draft Plan all the information received during the 14 week consultation period is taken into account. This information comes from other government departments and agencies (for example Roads Service and Water Service), local Councils, private sector organisations, members of the public and the community sector.

The Draft Plan includes maps showing proposed settlement limits for cities, towns and villages and areas zoned for housing, industry and other land uses including environmental protection. At this stage there is a further consultation period lasting six weeks during which anyone can submit written comments either supporting or objecting to the proposals contained in the Draft Plan. All comments are made publicly available.

04 Public Inquiry

Following the receipt of written comments during the six week consultation period, the Planning Appeals Commission (PAC) is asked to conduct a Public Inquiry to consider those comments which are objections to the Draft Plan. The objections and counter objections to the Draft Plan are examined in detail at the Inquiry which can last several months.

05 Planning Appeals Commission Consideration

After the Public Inquiry the Planning Appeals Commission considers all the arguments presented and prepares a report with recommendations for the Department of the Environment. The Department of the Environment does not have to accept the Commission's recommendations and may proceed with adoption of the plan with no changes, with some minor changes or with major modification. If the Department proposes major modification, it will generally publish a new document and invite comments on it - this involves repetition of the process from the Public Inquiry stage.

06 Adoption of Plan

After the Department of the Environment has considered the PAC Report it prepares and publishes an Adoption Statement which indicates that the Plan has been finalised. The adopted Plan will then be published incorporating any changes from the Draft Plan. There is no further opportunity for public comment or changes to the Plan at this final stage.

On adoption, the Plan becomes a statutory plan and the only further option for change to the Plan would involve an application to the High Court for a judicial review on a point of law.



Applying for Planning Permission

The Department of the Environment controls the development and use of land in the public interest. This includes deciding whether new buildings or changes to existing buildings are suitable in a particular location or on a particular site. This is done through the development management process which also deals with pre-application enquiries and breaches of planning regulations when people carry out unauthorised development.

Do all developments need planning permission?

Not all development proposals require planning permission, either because they are not considered development in planning terms, for example internal alterations to a dwelling, or are considered 'permitted development' under planning legislation (including various minor works within the curtilage of a dwelling). For most other development proposals, including many temporary structures, planning permission is required.

There are two routes to obtaining planning permission:

01 Full Planning Permission

An application for Full Planning Permission requires the submission of all details of the proposal. If you are confident that the principle of your proposed development is acceptable in planning terms an application for full planning permission may be the most suitable route.

02 Outline Planning Permission by Reserved Matters

For a new building you can make an application for Outline Planning Permission to find out whether the development is acceptable in principle. Detailed drawings are not normally needed, but the Department of the Environment may sometimes require further detail to decide whether or not permission should be granted.

Once outline permission has been granted, you will need to apply for approval of the details, known as 'Reserved Matters', before the work can start. You cannot apply for Outline Planning Permission for proposals involving a change of use.

Reserved Matters consist of details of siting, design, external appearance, means of access and landscaping of the proposal. What you propose must be consistent with the outline permission granted. If you wish to significantly change your proposal you will have to re-apply for outline or full planning permission.

What do I need to make an application for planning permission?

You need to obtain from the Department of the Environment a Planning Application Form, a checklist of what you need to send with the application and information on application fees. These can be obtained online and from your local planning office, see sources of information and advice on page 17. When you make an application you will need to supply, where necessary, information on such matters as:

land or building ownership;

any rights of way which may be affected;

water supply;

the addresses of neighbours who need to be notified;

the size of the site and the scale of any building;

vehicular and pedestrian access;

drainage and sewerage (including disposal of sewage effluent);

impact on any protected species.

It would be useful to consider the impact of your development proposal on neighbouring properties and any limitations on the use of the land or building. You should also check whether you need to get other consents such as building control approval.

How is my application assessed?

On receipt of an application, the Department of the Environment will check that it is complete and issue a receipt for the fee. If the application is incomplete it will be returned.

When the application is accepted it will be included in the Department of the Environment advertisement which is placed in the local press and occupiers of neighbouring properties will be notified. The advertisement and neighbour notification will invite comments or objections on the application.

Copies of the application are sent for consultation to other agencies, such as Roads Service, Water Service and Environmental Health, who will comment on the proposed development.

A planning officer will visit the site and prepare a report after taking the following factors into consideration:

current planning policies including Planning Policy Statements and the relevant Area Development Plan;
comments and objections;

comments from other agencies;
the impact of the proposal on the environment; and
any other relevant planning matters.

What happens next?

The Local Planning Office holds an internal group meeting to discuss and form an opinion on the application. The local Council is then consulted and informed of the opinion. At this stage the Council may agree with the Department of the Environment opinion or defer comment to allow an office meeting to hear the views of the applicant or objectors. If the application is routine, relatively minor and there are no significant objections the Department of the Environment may not need to refer it to the Council (provided the Council has agreed to this procedure). This allows the Department of the Environment to take these types of decisions more quickly.

The Department of the Environment takes the final decision on a planning application and issues a decision notice to the applicant. If an application is refused, the reasons for refusal will be given in the decision notice. All approvals will have a condition attached requiring work to start within a specified time period. There may be other conditions attached, such as restrictions on the hours of operation or access arrangements. Those who made comments on or objected to the application are informed of the decision at this time.

Major Planning Applications

Certain classes of planning application are treated as 'major' planning applications in planning law. Such applications, often for large-scale, complex and frequently controversial development proposals are subject to a special procedure. The Department of the Environment will either arrange for a Public Local Inquiry to be held to consider the proposal or a notice will be served on the applicant stating that the Department of the Environment intends to approve or refuse the application. The applicant may then seek a hearing before the Planning Appeals Commission (PAC) to consider this opinion. In both cases the PAC will consider the arguments put forward and will report to the Department of the Environment with recommendations. The Department of the Environment then makes the final decision on the application.



What can I do if planning permission is refused?

If your application for planning permission is refused or if you are dissatisfied with a condition attached to the approval, you can appeal in writing to the Planning Appeals Commission within six months of the date of the decision notice. This provides an opportunity for your proposal to be reconsidered independently. Appeals can be dealt with by written representation or by a hearing at which you or your representative(s) can present your case.

The decision of the PAC in such cases is final, unlike the case with major planning applications outlined above.

Only applicants can appeal against a planning decision. Third parties, for example objectors to an application, cannot appeal.



03 Character of the Area

You can object to a proposal if it will look out of place in an area or if its character does not fit in with the existing character of the area. For example, if a new development is much larger than other buildings in an area or has a different architectural style you can object. If a building will stand out in the countryside or another setting this also provides a basis for objecting.

04 Design, Layout and Appearance of the Proposal

The design, layout and appearance of new developments should be practical and fit in with the character and appearance of the surrounding area. There should be enough room for bin storage, parking, recreation etc. The design of new developments should fit in with other buildings in the area. The development should not be too dominant.

05 Compatibility with Existing Land Use

Some land uses work well next to each other, for example, a school often fits in well next to housing. Other types of development do not work well if they are located next to each other, for example, a large factory may not be appropriate next to an area of housing due to noise, disturbance, the hours of operation, increased traffic and pollution. You can object if you think a new development will not fit in well with existing land uses.

06 Housing Need

If there is a need for a certain type of housing in an area you can use this in your objection. For example, if a developer wants to build small apartments and there is a recognised need for family housing then you can use this in your objection. Evidence of a recognised housing need may be available from the Housing Executive and Housing Associations.

07 Conservation of Buildings

If you think a listed building or other building makes an important contribution to the character of an area especially a Conservation Area or Area of Townscape Character and should be retained you can use this in your objection. The Northern Ireland Environment Agency may be able to provide information of help. You can check if an application is in a Conservation Area or Area of Townscape Character by checking the Area Development Plan.

08 Heritage

The importance of preserving ancient monuments or sites of cultural or architectural value can be an important planning consideration. If you think these should be retained and there is a possibility that the heritage of an area will be destroyed you can use this in your objection.

09 Retention of Trees and the Natural Environment

If a new development will result in the loss of significant trees or will damage the natural environment in some way, you can object.

10 Cumulative Impact

This looks at the combined impact of development in an area. A development may not have significant negative impacts on an area on its own but in combination with other developments it could for example seriously damage the character of an area, overload local services.

11 Road Safety and the Impact on Traffic

If a new development will result in unsafe conditions on the road or will mean that traffic cannot move freely along the road, you can object. For example, if there are not enough parking spaces, cars may park along the road causing traffic congestion and making it difficult for emergency services to access the area. If a new access will be created in a dangerous position you can object. The Roads Service provides an opinion on these issues to the Department of the Environment.

12 Adequacy of Infrastructure

If you think that existing roads, parking facilities, public transport, electricity, water and sewerage systems etc. cannot cope with a new development or will be overloaded, you can object on these grounds.

13 Planning History

If similar proposals were turned down on this site or a similar site in the past, you can use these as examples in your objection letter. You can also include any other planning or planning appeal decisions that you think are relevant.

14 Precedent

If the Department of the Environment or the Planning Appeals Commission allow a development, it is difficult for them to refuse a similar development on a similar site, as a precedent has been created. When you are objecting to a proposal, you could argue that if the development was approved this would create a poor precedent. For example, if approval was given for a detached house to be replaced with an apartment development, this could be repeated on similar sites in the area, resulting in a loss of family housing and changing the overall character of the area. If you know of an example where a similar proposal was refused on a similar site, you could argue that a precedent has been created for refusing this type of development on this type of site.

15 Piecemeal Development

You can object to piecemeal development as it may prejudice the proper planning of a larger development of land. If a proposal only takes account of a small section of a larger parcel of land this could result in incompatible, unplanned and unsympathetic development. For example roads may not align properly and the area may not be completed to an acceptable standard. Therefore you can argue that the land should be planned and developed as a whole and planning permission should be sought for the whole area, not just a section of it.

16 Renewable Energy

The fact that a proposal will result in the delivery of renewable energy must be considered alongside the possible visual interference or effect on the surrounding landscape. For example you may want to object to a proposal for a wind turbine on the grounds of the visual impact it will have on the quality of the landscape.

17 Impact on Tourism

If you think a proposal will have a negative impact on tourism or tourism potential you can use this in your objection.

18 Economic Impact

If you think that a development proposal will have a detrimental economic impact in the area you can use this in your objection. For example the creation of a large superstore may result in a loss of local sales and the closure of shops and businesses.

More details on each of these grounds for objecting are in our Factsheet 'Grounds for Objecting to Planning Applications'. Please see our website or contact us for a copy.

The Department of the Environment only considers matters which are relevant to planning. Comments therefore which are not considered valid planning considerations cannot be taken into account. Examples include:

private property rights, for example disputes about boundaries or access;

developer's reasons for making the application;

comments of a discriminatory or racist nature;

comments which are vexatious or frivolous.

general disagreements between neighbours;

moral issues relating to the proposal or the developer;

disturbance during building work;

What will happen to my comments?

The Department of the Environment will write to you to acknowledge receipt of your comments and explain the next stages in the decision-making process. All comments from the public should be taken into account by the Department of the Environment, along with all other planning considerations, when making its decision on a planning application to present to the local Council for consultation.

When will I know the final decision on the application?

The Department of the Environment will inform you of its decision if you have commented on or objected to the application in writing.

What can I do if I am not satisfied with the decision?

Only the applicant can appeal against the decision of the Department of the Environment. Objectors can consider applying to the High Court for a judicial review of a planning decision on a point of law. This option is costly, complex and may be beyond the resources of most people and community groups. Legal Aid may be available to an individual wishing to pursue such an action.

What can I do if I do not believe my comments were taken into account or I am not satisfied with how my comments were dealt with?

You can formally complain to the Department of the Environment if you believe it did not handle your objection or comments adequately or that it did not provide a good service. You should contact the local planning office for details of its complaint procedure.

If you have followed the Department of the Environment's complaint procedure and are still not satisfied with how your comments were dealt with, you can complain to the Ombudsman. The Ombudsman is independent and can investigate complaints but will expect you to have used the Department of the Environment's complaint procedure first.

For complaints against government departments or agencies such as the Department of the Environment, the Ombudsman may only deal with your case via a referral from an MLA.

Changes to the Planning System

The Assembly has agreed that major elements of the planning system will be handed over to the new councils when they are set up. Proposals for this are set out in the Planning Act which was agreed in April 2011. Please see our factsheet on the new Planning Act for more details.

Other changes will be introduced before the new councils are set up, including changes to how planning applications are processed by the Department of the Environment. We will keep up to date with these changes and publish a revised guide when the new councils take on responsibility for planning applications and local plans. In the meantime we will provide information on changes as they occur through our advice services for community groups and individuals.



Sources of Information and Advice

Community Places is a voluntary organisation which provides advice on planning issues to community groups and individuals. We also facilitate community involvement in the planning process and in Community Planning and support communities in preparing local plans and proposals for their areas.

Community Places

2 Downshire Place, Belfast, BT2 7JQ

T: 9023 9444

F: 9023 1411

E: info@communityplaces.info

www.communityplaces.info

Department of the Environment

Planning and Local Government Group

Millennium House, 17-25 Great Victoria Street, Belfast BT2 7BN

T: 9041 6700

F: 9041 6802

E: planning@doeni.gov.uk

The Planning NI website (www.planningni.gov.uk) provides up-to-date information on Area Development Plans and planning policies and electronic versions of all planning application forms.

There are eight local planning offices which cover all local Council areas.

Other useful contacts:

The Ombudsman

Freepost, Belfast BT1 6BR

T: 0800 343425 (freephone)

The Planning Appeals Commission

Park House, 87-91 Great Victoria Street, Belfast BT2 7AG

T: 9024 4710

Northern Ireland Environment Agency

Klondyke Building, 10 Cromac Avenue, Lower Ormeau Road, Belfast BT7 2JA

T: 0845 302 0008

Call 101

The telephone number for all planning offices is 101.

A new single telephone contact service has been established by Government Departments and agencies. The telephone number for all planning offices is 101. The person answering your call should be able to give you basic information about any planning application. If you want to speak to the planning officer dealing with an application you should request this. The officer should then telephone you. You can also visit the office dealing with the application. The office will be able to show you the summary file. If you want to see the full file you need to make an appointment by telephoning the 101 number.

Planning Office

Ballymena

County Hall, 182 Galgorm Road, Ballymena BT42 1QF
Councils: Antrim, Ballymena, Carrickfergus, Larne, Magherafelt

Belfast

Bedford House, 16-22 Bedford Street, Belfast BT2 7FD
Councils: Belfast, Castlereagh, Newtownabbey

Craigavon

Marlborough House, Central Way, Craigavon BT64 1AD
Councils: Armagh, Banbridge, Craigavon, Newry and Mourne

Derry/Londonderry

Orchard House, 40 Foyle Street, Derry BT48 6AT
Councils: Derry, Limavady

Coleraine

County Hall, Castlerock Road, Coleraine BT51 3HS
Councils: Ballymoney, Coleraine, Moyle

Downpatrick

Rathkeltair House, Market Street, Downpatrick BT30 6EU
Councils: Ards, Down, Lisburn, North Down

Omagh

County Hall, Drumragh Avenue, Omagh BT79 7AF
Councils: Cookstown, Dungannon and South Tyrone
Omagh, Strabane

Enniskillen

County Buildings, 15 East Bridge Street, Enniskillen BT74 7BW
Councils: Fermanagh

