

PLANNING REFORM CONSULTATION PAPER

ONLINE RESPONSE FORM

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All responses should be submitted to the
Department no later than 2nd October 2009



An Agency within the Department of the

Environment

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RESPONDENT INFORMATION

Please Note that this form **must** be returned with your response to ensure that we handle your response appropriately.

In keeping with our policy on openness, the Department will make responses to this consultation paper publically available. When publishing responses received on behalf of organisations the Department will also publish the organisation's name and address. When publishing responses received on behalf of individuals the Department will not publish details of the individual's name and address.

1. Name/Organisation

Organisation Name

HISTORIC MONUMENTS COUNCIL

Title

Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

COONEY

Forename

GABRIEL

2. Postal Address

Secretariat, 3rd Floor, Calvert House, 23 Castle Place, Belfast

Postcode:

BT1 1 FY

Phone:

028 90254721

Email:

Secretariat-hillst@doeni.gov.uk

3. Are you responding:

As an individual

On behalf of a group / organisation

4. Which of the following best describes the capacity in which you are responding:

Developer

Agent/Architect

Business

Member of Public

Environment Group

Council / Councillor

MLA, MP, MEP

Other Please state: STATUTORY ADVISORY COUNCIL TO THE DEPARTMENT OF THE ENVIRONMENT

5. Acknowledgment

Individual responses will not be acknowledged unless specifically requested

CHAPTER 2 - PLANNING POLICY

Question 1

Do you agree that, in future, planning policy statements should provide strategic direction and regional policy advice only, which would then be interpreted locally in development plans?

Yes No

No, The Historic Monuments Council does not agree with this question. Planning Policy Statement 6 on Planning, Archaeology and the Built Heritage has proved to be a very effective policy statement in the management and protection of the quality of the historic environment. What PPS 6 is based on is the public value of sustaining the quality of the historic environment. For the present and well into the future, until after the new planning and district council structures have been put in place the established policies contained in PPS need to be retained. They provide a clear, coherent and strategic overview for Northern Ireland, guiding planning decisions and forming a critical and coherent element in the overall Regional Development Strategy. There is a very real danger that the quality and coherence of the management and protection of the built heritage will decrease significantly if left to local interpretation in development plans, plans which have yet to be prepared and at a time when the level of advisory and expert resources that will support the preparation of development plans is unclear. Of course at some future date it might be plausible if appropriate structures and resources are available to guide district councils that planning policy statements should provide strategic direction and regional policy advice only.

- The Historic Monuments Council wishes to reiterate its advice that presently and for the foreseeable future it is vital to maintain the status of planning policy statements, specifically PPS 6, as policy statements, provide the basis and direction for the implementation of planning policy in development plans. Given that one of the aims of the proposed reform of the planning system is to 'engage communities' this opportunity should be taken to strengthen the operational guidance and advice contained within PPS 6 to embed the concept of 'public value' in the practice of development-led archaeology in Northern Ireland.

Question 2

Do you consider there are any elements of operational policy which should be retained in planning policy statements?

Yes No

The major elements of operational policy for the care and protection of the historic environment are contained within PPS 6, Planning, Archaeology and the Built Environment. In the view of the Council this has provided and continues to provide a very effective framework for the implementation of operational policy. Council would strongly advise that PPS 6 should be retained in its current form. What would be useful would be a review of this and other relevant PPSs to assess whether there are changes required to make them more fit for operational purpose. In the case of PPS 6 this would include embedding the concept of 'public value' within the practice of development-led archaeology in Northern Ireland.

CHAPTER 3 - TOWARDS A MORE EFFECTIVE DEVELOPMENT PLAN SYSTEM

Question 3

Do you think it appropriate to commence a 'plan led' system in advance of the transfer of the majority of planning functions to district councils under the Review of Public Administration?

Yes No

It is the view of Council that the appropriate time to commence a 'plan led' system is only after all the plans that will underpin such a system have been prepared. The transitional period between old and new systems and the management of the process to produce all of the required new plans within an appropriate timescale is crucial. To ensure the success of the system it will be vital to provide guidance on the operation of such a system under interim arrangements and within the district councils.

Question 4

Do you agree that the objectives contained in paragraph 3.6 are appropriate for local development plans?

Yes No

Yes and No! As currently articulated paragraph 3.6 outlines a set of objectives for a new local development plan system which to some extent are a response to problems with the current system. The key bullet points in 3.6 are the first two; the need to set out a strategic vision and approach and indications of how places should change and what they should be like in the future.

The key problem with para. 3.6 is that nowhere in it is there any sense that it is people who make places or how the new local development plans will sustain and improve the quality of people's lives.

How will the capacity of places to change be adjudged?

A particular concern to Council would be how the value of the historic environment and its contribution to place will be assessed?

These issues are of particular concern given the 15-year plan framework mentioned in paragraph 3.7.

While there is mention of an independent examination process that focuses on testing the robustness of the plan the accompanying text does not provide any great detail or assurance that there will be a retention of current best practice through the planning system (and other processes) for the care and protection of the historic environment and the mitigation of development impacts on it.

Question 5

Do you agree that the functions contained in paragraph 3.7 are appropriate for local development plans?

Yes No

With respect this is a 'motherhood and apple pie' question. The functions to be fulfilled by local development plans are entirely laudable. However, Council has no information to indicate that the operational policy is in place to ensure that the district councils will have access to the knowledge, expertise and data that will be required to make such plans work or to actually have the functions set out in this paragraph.

Through its advisory role Council understands that current arrangements ensure that NIEA has a significant role in development planning, working with the Planning Service. This established, working operational process means that environmental data and considerations inform and are part of development planning from the beginning of the process.

The 15-year plan framework makes it even more critical that local development plans are underpinned by detailed consideration of the historic environment, its crucial importance in providing a sense of place, its sustainability and capacity for change and how it can be used effectively to promote tourism and other economic activities.

- The Historic Monuments Council advises that the operational issue of how the district councils will work with NIEA is key to local development plans being fit for purpose in terms of the functions set out in paragraph 3.7. This needs to be formulated and detailed for local development plans to be effective.

Question 6

What are your views on the proposal that a district council's statement of community involvement must be in place before any public consultation on the local development plan?

The Historic Monuments Council welcomes this proposal.

Question 7

What are your views on the proposal for a programme management scheme?

As outlined in Diagram 2 this scheme seems very sensible. However, Council would be concerned that the diagram is simply that and the resources, the partnerships and processes which will be required to make the scheme effective are not clear. Have the timelines being assessed in these contexts to ensure they are realistic?

Council would also comment that it should be clearer in Diagram 2 when and how public consultation fits into the process.

Question 8

Do you agree that a preferred options paper should replace the issues paper?

Yes No

This seems like a proposal that would engage the public more easily and facilitate community involvement in the process. However if this process is going to be meaningful in 'frontloading' community and stakeholder involvement it will have to be carried carefully and with effective public involvement.

This will require articulation of the value and character of places for people which Council would like to see more formally recognised in the final version of this paper.

Question 9

Do you agree with the proposal to introduce a local development plan process that comprises two separate but related documents to be published, examined and adopted separately and in sequence?

Yes No

Operationally this seems to be a useful proposal, separating strategy from policies and proposals so that over the life time of the plan and in reviews the effectiveness of the latter when judged against the former can be assessed.

More thought should be given to ensure that this separation of the plan into two documents, to be published, examined and adopted separately, would not give rise to delays in the plan process.

Council would also query why there is not a stronger articulation of the need for the Plan Strategy to be 'on message' with the Regional Development Strategy. There has to be a real concern that a potential plethora of local strategies will dilute the overall aims of the RDS, which is the key for an overall, coherent plan strategy for Northern Ireland.

Question 10

What are your views on the proposal to deal with amendments to the local development plan?

The Council would agree with the process set out very briefly in the paper. Council would make the observation that in the context of local development plans that this is an issue that may require more detailed consideration as it is likely to arise perhaps more frequently than para 3.27 suggests.

Question 11

What are your views on the proposal that representations to a local development plan will be required to demonstrate how their proposed solution complies with robustness tests and makes the plan more robust?

The Council would agree that demonstration of compliance is essential. Council would have a concern as to whether the district councils will have the resources or operational mechanisms in place to ensure that appropriate criteria and tests are used.

Question 12

What are your views on the proposal that representations to a local development plan will be required to demonstrate how their proposed solution meets the sustainability objectives of the local development plan?

The Council would agree that demonstration of meeting sustainability objectives is essential. Council would have a concern as to whether the district councils will have the resources or operational mechanisms in place to ensure that appropriate criteria and tests are used. Who will define what is 'sustainable'?

Question 13

Should the Department give the examiner(s) the power to determine the most appropriate procedures to be used in dealing with representations to the local development plan?

Yes No

The Council agrees with this in principle. Council would suggest that there should be clarity on the criteria on which the Department would deem an examiner(s) as appropriate to provide independent consideration of representations.

Question 14

Do you agree that the representations to the plan should be submitted in full within the statutory consultation period, with no further opportunity to add to, or expand on them, unless requested to do so by the independent examiner?

Yes No

Council would agree with the principle of this question, but it does require that the statutory consultation period is sufficient and reasonable for detailed representation to be made on what can be complex, multi-faceted issues involving considerable time and effort, often by individuals or non-professional organisations.

Question 15

What are your views on the proposals for counter representations?

Council would suggest that what is more important in this context are the issues referred in previous questions regarding the 'robustness' of the plan. This will be crucial for the independent examiner(s) to examine, they are after all assessing the 'public good' of the plan in the context of specific representations.

Question 16

Do you agree that the basis for examining plans should be changed from an objection-based approach to one which tests the 'robustness' of plans?

Yes No

Given the earlier proposal (see question 9) to have two separate documents in local development plans, it seems very difficult to imagine there will not continue to be an objection-based approach (to do with specific policies and proposals) as well and alongside a 'robustness' approach (to do with plan strategy)?

Is some clarity of approach needed here?

Question 17

What are your views on the recommended approach for examining local development plans?

The key issue here is the proposal in para 3.39 to put legislation in place to require local authorities to submit draft development plans to the DOE for scrutiny to ensure they are aligned with central government plans, policy and guidance. This legislation is crucial if the recommended approach is to be of real value.

As a comment reading the appropriate section of the paper, and the paper more broadly, Council has been struck by the lack of a 'spatial' or 'landscape' dimension to the discussion of the planning framework and regional strategy. For example, the district councils adjoin each other and cumulatively make up Northern Ireland. In paragraph 3.41 a stronger articulation of the central role of the regional strategy and vision for Northern Ireland in underpinning the planning framework might have been expected.

Question 18

What are your views on the proposals to ensure regular monitoring and review of local development plans?

Of course in terms of quality assurance and review this is essential. It is disappointing that it is expressed in such generalised terms. Particularly if plan 'robustness' is the key then the basis on which the monitoring will be carried out should be detailed. Who will do it and how frequently ?

Question 19

Do you agree with the proposed content of local development plans as set out in paragraph 3.44?

Yes No

The Historic Monuments Council would advise that the historic environment, which is after all the physical and material framework of peoples' lives and the places they live in, has to be a basic component within both the Plan Strategy and the Site Specific Policies and Proposals documents.

Question 20

Do you consider that the topic areas contained in paragraph 3.46 are appropriate for inclusion in local development plans?

Yes No

They are suitable topic areas. However, Council notes the absence of the historic environment as a topic area (Environment and Conservation do not adequately cover the historic environment)

- The Historic Monuments Council would advise that the Historic Environment should be added as a topic area for Local Development Plans in para 3.46.

Question 21

Do you agree that district councils should be required to prepare sustainability appraisals as part of their local plan preparation process?

Yes No

Council would agree with this question. It is essential that the sustainability appraisals are fully compliant with the Strategic Environmental Assessment directive.

What is not clear is who will carry the sustainability appraisal?

Will the district councils have the resources or expertise to do so?

This process should by definition be separate from the local area plan preparation, how will this independence be achieved and assessed?

- The Historic Monuments Council affirms and advises that the Local Development Plans must be clearly seen to be fully compliant with the SEA directive.

Question 22

What are your views on the proposal that the Department should have the powers to intervene in the making, alteration or replacement of a local development plan by the district council?

This provision seems to be very sensible, but again operational principles need to be clearly set out for what could be a contentious area of policy.

Question 23

a) Do you agree that district councils should be given the power to make joint local development plans if they so wish?

Yes No

b) Do you consider that such powers would adequately deal with instances where neighbouring district councils would consider it beneficial to work together?

Yes No

The Historic Monuments Council welcomes this proposal which will help to ensure that there is a consistency of approach in planning between district councils. It will also help to deliver the integration of regional policy. Council would re-iterate that there should be greater concern with how the local development plans will adhere to and deliver the RDS.

Question 24

What are your views on the proposed transitional arrangements for development plans?

They seem fine in principle, but will certainly require careful elaboration to be effective in ensuring a successful transition process.

CHAPTER 4 - CREATING A STREAMLINED DEVELOPMENT MANAGEMENT SYSTEM

Question 25

Do you agree with the proposed introduction of a new planning hierarchy to allow applications for the three proposed categories of development to be processed in proportion to their scale and complexity?

Yes No

No, the Historic Monuments Council does not agree with this question. In the relevant chapter (4) of the consultation paper there is no statement or clarity on the vital question of who will assess the impact on the quality and sustainability of the historic environment of different categories of development under the proposed new planning hierarchy. At the moment impacts are expertly assessed by NIEA under the SLA (Service Level Agreement) with the Planning Service. It would seem clear that this arrangement will continue for regionally significant developments. It is not at all clear how the impact of major and local developments will be assessed by district councils. Who will provide expert advice to these councils? Will there be SLAs or a different mechanism between the councils and NIEA? Both individually and cumulatively the potential impact of local developments can be significant. How will NIEA continue to be involved at all levels of the proposed hierarchy? For example in terms of local developments Listed Building Consent may be required and this is not a minor matter. Such small-scale local developments may also require Scheduled Monument Consent if the development impacts on a scheduled monument as defined under the HMAO Order 1995. Scheduled Monument Consent does not come under the planning system at all but the consultation paper shows little awareness of how proposed changes, such as the planning hierarchy, will impact on archaeological monuments that have such statutory protection.

It is clear from the consultation paper that there has been inadequate consideration of the consultation with bodies such as the NIEA, and statutory councils such as the Historic Monuments Council, in the context of the reform of the planning system and the Review of Public Administration.

- The Historic Monuments Council would advise that there should be a formal consideration of how consultation with bodies such as the Council, the other statutory

advisory councils and indeed NIEA itself, will be conducted in the planning process after the Review of Public Administration.

Question 26

Do you agree with the 3 proposed categories of development (regionally significant, major and local) and their respective definitions?

Yes No

As per the response to Question 25 the Historic Monuments Council is of the opinion that the three proposed categories of development do not adequately consider either how the process of consultation will work post-RPA.

More fundamentally the reality is that individual local developments can have a major impact on the historic environment and that the aggregate, cumulative impact of such development could over time fundamentally alter, to its detriment, the character of a place.

Little consideration appears to be placed in the paper on how consultation on dealing with the impact of development on the historic environment that falls outside the planning process, such as Scheduled Monument Consent, will be operationalised.

Question 27

In relation to applications for regionally significant development, do you consider that the 4 legislative criteria (see paragraph 4.14), in association with a pre-application screening requirement, are sufficient to identify relevant potential developments?

Yes No

The Historic Monuments Council would be concerned that in the formulation of paragraph 4.14 there is no mention of the corresponding regional environmental impact of such impacts. Given the specific mention of developments that are above the threshold for EIAs Council would suggest that it would be useful to state that such developments would be subject to EIA and SEA.

Question 28

Do you have any comments on the proposed thresholds for the different types of development categories, particularly in relation to the classes of major development described in table 2?

Yes No

It would be useful to clarify which of the categories will be covered by the judgement that an EIA is required.

Why is this requirement for an EIA not stated as a consideration of ALL the thresholds for major developments, as a best practice approach to assessing environmental impact would indicate?

Question 29

Do you agree with the proposed approach to urban/rural variation in setting the proposed housing thresholds for major development?

Yes No

Council is not in a position to comment in detail on this variation or the reasons for it.

Question 30

Do you agree that performance agreements should be in place before the submission of regionally significant applications?

Yes No

Council views this as an appropriate measure.

Question 31

What are your views on the suggested elements contained within a performance agreement, and setting a timescale specific to each individual application?

Agree with suggested components.

It seems appropriate and useful to set timescales specifically for each individual proposal.

Question 32

Do you agree that this should be a voluntary (i.e. non-statutory) agreement?

Yes No

Perhaps this question should be re-phrased to emphasise best practice rather than the underlying code. Council is unclear why PAs would not be considered to be the norm?

Surely askance could be posed of an application where a PA was not proposed and put in place?

Question 33

Do you agree that developers should hold pre-application consultation with the community on regionally significant developments?

Yes No

Council would be concerned about the transparency and fairness of such a process. As defined in the paper (p.60) such proposals have a critical contribution to make to the economic and social success of Northern Ireland as a whole, or a substantial part of the region. In this context it is difficult to envisage how the diversity of the 'community' of Northern Ireland could be effectively represented at such a consultation. Clearly there needs to be definition of who or what the community is and care would have to be taken that the consultation was not confined to individuals or groups supportive of the development.

Question 34

Do you agree pre-application community consultation should be a statutory requirement?

Yes No

In line with the response to Question 33 this question should be addressed carefully. The principle of public consultation is a good one and perhaps that is what should be the focus.

Question 35

Do you have any views on what the form and process for verifying and reporting the adequacy of pre-application consultation with the community should involve particularly in relation to the elements indicated at paragraph 4.32?

Yes No

In general seems fine, see responses to Questions 33 and 34 above.

Question 36

Do you agree with introducing the power to decline to determine applications where pre-application community consultation has not been carried out or the applicant has not complied with the requirements of pre-application community consultation?

Yes No

In general yes. See responses to Questions 33,34, and 35 above.

Question 37

Do you agree that the Department should determine applications for regionally significant development in association with the proposed statutory screening mechanism?

Yes No

The Council is in agreement with this statement. However Council would advise that there should be more clarity on how this process will operate and how the Department will determine the impact of such developments on the historic environment, for example through consultation with statutory advisory councils.

In the context of where the Department appoints independent examiners in addition to the option of appointing the PAC, Council would advise that there needs to be an assurance and clarity on the processes whereby such independent examiners will be appraised of all the relevant expertise and documentation on potential impacts of the development on the historic environment.

Question 38

Do you agree with the proposal to designate a district council as a statutory consultee where it is affected by an application for regionally significant development?

Yes No

No further comment required.

Question 39

Do you agree with the proposed notification and call-in mechanism, including the pre-application and application stages indicated in diagram 2, for applications for regionally significant development?

Yes No

There appears to be some confusion with this question as it seems more appropriate to major developments as set out on p.75.

It should be noted that there are cases where other statutory consents (e.g. Scheduled Monument Consent) may be required for a development to proceed. These situations need to be factored into the process.

Question 40

Do you agree that if the Department decides not to call-in a notified application it should have the option to return the application to the district council, either with or without conditions, for the district council to grant permission subject to conditions that may be specified by the Department?

Yes No

Sounds appropriate and sensible practice.

Question 41

Do you agree with the proposal giving the Department the option to appoint independent examiners to hold a hearing or inquiry into applications for regionally significant development?

Yes No

In the context of where the Department appoints independent examiners in addition to the option of appointing the PAC, Council would advise that there needs to be an assurance and clarity on the processes whereby such independent examiners will be appraised of all the relevant expertise and documentation on potential impacts of the development on the historic environment.

Question 42

Do you agree that the Department should prepare hearing and inquiry procedure rules for use by independent examiners?

Yes No

See comment in response to Question 41.

Question 43

Do you agree that the processes for performance agreements should also apply to applications for major development?

Yes No

Seems sensible and appropriate.

Question 44

Do you agree that the processes for statutory pre-application community consultation should also apply to applications for major development?

Yes No

In line with the response to Questions 33 and 34 this question should be addressed carefully. The principle of public consultation is a good one and perhaps that is what should be the focus.

Question 45

Do you support a power for district councils to hold pre-determination hearings with discretion over how they will operate, where they consider it appropriate for major developments?

Yes No

Yes, but clarity on the process will be essential.

Question 46

Do you consider that there are other circumstances in which district councils should have the scope to hold such hearings?

Yes No

Yes, but clarity on the process will be essential.

Question 47

Where a performance agreement has not been reached, do you consider it appropriate to extend the non-determination appeal timescale for applications for major development to 16 weeks?

Yes No

Question 48

Do you agree that district councils, post-RPA, shall be required to introduce schemes of officer delegation for local applications?

Yes No

In the context of the delegation of authority for planning to district councils post-RPA this will be appropriate and necessary.

However, and in line with responses to other related questions The Historic Monuments Council advises that the system of consultation with NIEA: Built Heritage will have to continue. This works well under the current SLA with Planning Service. It is of critical importance that similar SLAs or equivalent mechanisms are established with each of the district councils, post-RPA.

Question 49

Do you agree that, post-RPA:

a) the list of statutory consultees should be extended;

Yes No

b) categories of development, linked to the development hierarchy, that require consultation (including pre-application consultation) before applications are determined by the planning authority should be introduced?

Yes No

Yes, the Historic Monuments Council would strongly agree with both parts of this question. A major flaw in the consultation paper is that it is not clear that there has been any detailed consultation with bodies such as the statutory advisory councils, or the NIEA itself as to how the consultation process will work, post-RPA. With reference to question 25 above how can there be any confidence in the ability of the proposed planning hierarchy to assess the impact of proposed developments when the question of the process of consultation is literally that and has not be considered as an integral part of how the reform will work on the ground?

•The Historic Monuments Council advises that it is absolutely critical if the planning system is going to sustain the quality of the historic environment for the public benefit of the people of Northern Ireland that current types of consultation, as per the SLA between NIEA and the Planning Service should be maintained. These include consultations that would have an impact on State Care Monuments, Scheduled Historic

Monuments, Areas of Special Archaeological interest, historic sites and monuments and their settings and other sites as recorded in the NISMR (Northern Ireland Sites and Monuments Record), Gardens and Demesnes of Special Historical Interest for Northern Ireland and listed buildings.

- Council would advise that SLAs or a similar appropriate mechanism be established between the planning offices in each of the district councils and the NIEA to ensure the generally effective response to potential impacts on the historic environment in the current planning system in Northern Ireland.

Question 50

Do you agree, post-RPA, that statutory consultees should be required to respond to the planning authority within a specified timeframe?

Yes No

Yes, provided there is established clarity on the resources and funding that will be available to statutory consultees to fulfill their obligations within the specified time frame.

Question 51

If so, what do you consider the specified timeframe should be?

30 working days after receipt of application from Planning Service or a district council.

Question 52

Do you agree that the existing legislation should be amended and clarified to ensure that anyone wishing to demolish any part of an unlisted building in a conservation area/ATC/AVC requires conservation area consent or planning permission?

Yes No

The Historic Monuments Council would very strongly support such an amendment and clarification.

The Council would strongly support increased protection for Conservation Areas, ATCs/AVCs against detrimental impacts.

Question 53

Do you agree that the planning authority should be able to require that, where possible, proposed development should enhance the character of a conservation area?

Yes No

The Council would agree with this proposal. However, it will require clarity and guidelines on how development can enhance character, what enhancement means and the application of the approach on a specific, case by case basis.

Question 54

Do you agree that the normal duration of planning permission and consent should be reduced from five to three years?

Yes No

Agree.

Question 55

Do you agree that a statutory provision should be introduced to allow minor amendments to be made to a planning permission?

Yes No

The response to this question depends on a clear definition of how 'non-material changes' are defined. Council would be cautious about agreeing with a proposal whereby apparently 'minor' amendments in planning permissions could for example adversely impact on the character of a listed building or the setting a scheduled monument and run counter to the intent and spirit of the conditions attached to the original planning permission.

Question 56

Do you have any comments on the details of such a provision as outlined at 4.100?

Yes No

See response to previous question.

Question 57

Would you be in favour of enabling the planning authority to correct errors in its planning decision documents without the consent of the landowner or applicant?

Yes No

CHAPTER 5 - APPEALS AND THIRD PARTY APPEALS

Question 58

a) Do you agree that the time limit to submit appeals should be reduced?

Yes No

b) If so, what do you think the time limit should be reduced to - for example, 4, 3 or 2 months?

While recognising the case set out in the paper for reducing the time limit for submitting appeals, Council is of the opinion that in the public interest and administrative efficiency the time limit should be 4 months.

Question 59

Do you agree:

a) that the PAC should be given the powers that would allow it to determine the most appropriate method for processing the appeal; or

Yes No

b) that applicants should be allowed to choose the appeal method?

Yes No

The Council would agree with the proposal that the PAC should be provided with the statutory powers to enable it to decide the appeal method, based largely on the complexity of the appeal.

Question 60

Do you agree that parties to appeals should not be allowed to introduce new material beyond that which was before the planning authority when it made its original decision?

Yes No

This would seem to be in line with approach been taken in Scotland and England.

Question 61

Do you agree with the proposal that the planning authority should be able to refuse to consider a planning application where a 'deemed application' associated with an appeal against an enforcement notice is pending?

Yes No

Seems appropriate and sensible practice and policy.

Question 62

Do you agree that the planning authority should have the power to decline repeat applications where, within the last two years, the PAC has refused a similar deemed application?

Yes No

Seems appropriate and sensible practice and policy.

Question 63

Do you agree that a time limit of 2 months should be introduced for certificate of lawful use or development appeals?

Yes No

Question 64

Do you agree that the PAC should be given a power to award costs where it is established that one of the parties to an appeal has acted unreasonably and put another party to unnecessary expense?

Yes No

Seems appropriate and sensible practice and policy.

Question 65

Do you think the new district councils should be able to establish local member review bodies to determine certain local planning appeals?

Yes No

The Council would not agree with this proposal. Surely it is blurring the lines between the district council as the local planning authority and the mechanisms by which appeals on decisions of that authority will be heard?

Question 66

If so, what types of applications should this apply to?

N/A. See response to Question 66.

Question 67

Should provision for third party appeals be an integral part of the NI planning system or not? Please outline the reasons for your support or opposition.

Yes No

This issue is very well presented on pp 100-102 of the paper. While the costs and impacts of third party appeals are highlighted, these issues do not detract from the potential benefits of third party appeals as outlined in bullet point form at the top of p.101.

Question 68

If you do support the introduction of some form of third party appeals, do you think it should an unlimited right of appeal, available to anyone in all circumstances or should it be restricted?

It would have to be restricted to ensure that the financial and resource implications outlined on pp. 101-2 would not be incurred.

Question 69

If you think it should be a restricted right of appeal, to what type of proposals or on what basis/circumstances do you think it should be made available?

Council's particular concern would be where there are proposals that are acknowledged as having a major environmental impact.

CHAPTER 6 - ENFORCEMENT AND CRIMINALISATION

Question 70

Do you agree that a premium fee should be charged for retrospective planning applications and, if so, what multiple of the normal planning fee do you think it should be?

Yes No

If this is in the context of an applicant seeking permission for a development which commenced without permission Council would query the value of such an approach (see Question 73 below)

Question 71

Do you think the Department should consider developing firm proposals for introducing powers similar to those in Scotland, requiring developers to notify the planning authority when they commence development and complete agreed stages?

Yes No

Question 72

Do you think the Department should consider developing firm proposals for introducing Fixed Penalty Notice powers similar to those in Scotland?

Yes No

Council would advise that there is a possibility that such fixed penalties might be seen and used as an acceptable cost for the removal of archaeological sites or historic buildings that are protected through the planning process.

Question 73

Do you think the Department should give further consideration to making it an immediate criminal offence to commence any development without planning permission?

Yes No

If planning policy is to be effective enforcement of this basic transgression of the legislation is necessary.

CHAPTER 7 - DEVELOPER CONTRIBUTIONS

Question 74

Do you agree that there is a case for seeking increased contributions from developers in Northern Ireland to support infrastructure provision?

Yes No

Agreed.

Question 75

If so, should any increase be secured on the basis of extending the use of individual Article 40 agreements with developers on a case by case basis?

Yes No

Agreed.

Question 76

Alternatively, should a levy system of financial contributions from developers be investigated in Northern Ireland to supplement existing government funding for general infrastructure needs, e.g. road networks, motorways, water treatment works etc., in addition to the requirements already placed upon developers to mitigate the site-specific impact of their development?

Yes No

The impact of site specific developments on the historic environment is mitigated in a number of different ways. Where significant impact occurs archaeological excavation takes place, providing knowledge about the past in lieu of the loss of in situ historic sites. It is entirely reasonable that the cost of such work and the integral post-excavation and publication of the results should be borne by the developer.

However the cumulative result of this work in the past, and the reality that it will continue into the future, has resulted in the formation of a very important archive of material. This archive needs long-term storage and conservation which is beyond the resources of any single government agency. In other countries a general financial level from developers have been used in a number of ways to supplement government funding on archaeological work.

- The Historic Monuments Council would suggest that it would be both appropriate and a public benefit to have included in such a levy system funding for the storage and conservation of archaeological material with a view to securing it for future use and display.

Question 77

What types of infrastructure should be funded through increased developer contributions, e.g. should affordable housing be included in the definition?

See response to Question 76.

Question 78

If such a levy system were to be introduced in Northern Ireland should it be on a regional i.e. Northern Ireland-wide, or a sub-regional level?

See response to Question 76.

Question 79

If such a levy system were to be introduced should all developments be liable to make a financial contribution or only certain types or levels of development e.g. residential, commercial, developments over a certain size?

See response to Question 76.

CHAPTER 8 - ENABLING REFORM

Question 80

The Department invites views on how we (and other stakeholders) might ensure that all those involved in the planning system have the necessary skills and competencies to effectively use and engage with a reformed planning system.

- Training opportunities for planning officers in interpreting and understanding the historic environment, for professionals in the historic environment sector to have a better understanding of the planning process.
- Promotion of the concept of 'champions for the historic environment' among the elected members of the district councils
- Effective communication between the Department, NIEA and district councils to ensure flow of information and integration of regional and local policy, planning and direction.

Question 81

Post-RPA, do you agree that central government should continue to set planning fees centrally but that this should be reviewed after 3 years and consideration given to transferring fee setting powers to councils?

Yes No

Agreed, provided that there is a clear stipulation that under any such system in future where councils set fees that this is related directly to sustaining professional expertise within the councils to advise on issues such as the management and protection of the historic environment.

Question 82

Do you agree that central government should have a statutory planning audit/inspection function covering general or function-specific assessments?

Yes No