

PLANNING FOR TRANSFER: CAPACITY BUILDING & TRAINING FOR ELECTED REPRESENTATIVES

SESSION 3 – PRACTICAL PLANNING

Speaking Notes – Reformed Development Management System

Slide 1

- A significant part of the current work of the guidance team is to produce a series of Good Practice Notes on the key elements of the reformed planning system stemming from the Planning Act 2011 and associated subordinate legislation.
- It is hoped that such guidance will provide a valuable tool in assisting planning officers, councillors and indeed members of the public in understanding and implementing the reforms.
- Why reforms? To recognise 2 tier planning system and part of ongoing move over 5-10 years from DC to DM, a more positive responsive system.
- In today's presentation I hope therefore to take you through some of the key reforms and how these are relevant to Councils. It is important to bear in mind throughout this presentation that that since the subordinate legislation programme has not yet been finalised- many of the finer details of the reforms may be subject to change.

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- Presentation will focus mainly on the key aspects of the new system, the new hierarchy of development (introduced by Act/subordinate legislation) to reflect the move to 2 tier planning system, examining each category of development and how applications will be processed under each category.
- The new requirements and roles will also be explored as well as any other reforms to the system, which are important to highlight.
- It will also touch on permitted development in order that a full picture of the system can be understood.

Slide 3

- Many of you will already be aware of the new hierarchy of development which depicts the new categories of development.
- Under this new model from April, the Department will determine only a very limited number of regionally significant applications. Councils will be responsible and accountable for the vast majority of planning decisions and this will be in the form of major and local applications.
- These categories of development will allow councils, and where relevant, the Department, to treat applications in a way which is suited to their size, complexity and the issues they are likely to raise.
- Legislation will set out in detail what is considered to be RSD and Major by establishing clear thresholds.
- Sitting within the category of local at the bottom of the pyramid is Permitted Development (PD).

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- What is permitted development (PD)?
- Permitted Development has been discussed in earlier presentation but to briefly recap, permitted development rights allow certain building works and changes of use to be carried out without having to make a planning application.
- Examples include garden sheds, small porch extensions, fences, gates etc
- Permitted development rights are subject to conditions and limitations to control impact and to protect local amenity. Many day to day queries raised with planning relate to PD.

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- Moving on to local developments which comprise the bottom tier.
- Legislation will set out what is considered to be RSD and Major. Local developments will be comprised of all other developments (other than permitted development) that do not fall within the classes described for major or for regionally significant developments. Major and RSD are defined.
- Local Developments are likely to comprise the vast majority of residential and minor commercial applications likely to be received and determined by a council.

Examples

- Local developments include changes to individual houses, single dwellings and smaller developments for new housing and retail.
- So how will Councils deal with Local applications?

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- Similar to the Departments streamlining scheme, Schemes of Delegation (SODs) have already been mentioned.
- Councils will be familiar with delegated arrangements for other Business Areas. Each Council will be required to prepare a SOD for planning applications where a decision may be taken by planning officer rather than Planning Committee.
- SOD will apply to applications within the local category development – will detail the classes of development which are delegated.
- When drafted, Schemes will be submitted to the Dept for consideration – meet legislative requirements – reasonable to begin consideration.

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- Councils can tailor SOD's based on local experiences and issues i.e. Committees may be interested in certain types of development that are 'local'.
- What can be delegated – all local with 2 exceptions set out in slide. This is similar to practice elsewhere and adds to transparency of planning process.
- Councils can build in check/balances i.e. a threshold for objections.

There are a number of benefits offered by SODs

- In delegating a high proportion of applications this frees up a Committee's time and resources to focus on decision making on complex cases where Committees will need to examine the issues in detail. In Other jurisdictions up to 90% of applications are delegated.
- A delegated application will always be more cost effective than one which is taken to Committee – processed more quickly and less resource intensive.
- A recent consultation document from Wales highlighted that the average cost of processing a delegated application was less than half of that of a Committee decision.
- From customer perspective decisions issued more quickly.
- Early consideration of SOD is advisable if not essential. Will allow business to continue after 1st April – otherwise all applications will be required to be taken to Committee.

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- Major applications will be set out in legislation and must be taken to Planning Committee for decision.
- Major developments have important economic, social and environmental implications for a council area and have the potential to deliver important benefits for an area. As a result, have certain additional requirements.

- The thresholds for major developments will be contained in DM Regulations 2015. Consultation doc proposed: 50 or more homes, certain waste, water, energy related development and larger retail development.
- These thresholds will help ensure clarity for prospective applicants and councils about which process a proposed development should follow, and provide an appropriate response to applications depending on their scale and complexity.
- Some further requirement of major examined below.

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- Where a major application is to be submitted, firstly a PAN should be submitted.
Pre-Application Notice
- Section 27(3) of the 2011 Act states applicants must give the council or Department 12weeks notice of their intention to submit a planning application for determination.
- **pre-application consultation with the community** includes sending details of the proposal to the council or Department and consulting the wider community using at least one locally advertised public event.
- Ultimately this means that Councils will have 12weeks notice in advance of the submission of a major application.

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- The Planning Act has introduced a statutory duty upon applicants to consult the community in advance of submitting an application in the major category and this also applies to Regionally Significant applications too.
- Pre-application community consultation is therefore a key reform as it seeks to enhance community involvement early in the planning process.
- The objective of encouraging an applicant to engage in the pre-application consultation process is for local communities to be better informed about

development proposals and to have an opportunity to contribute their views before a formal planning application is submitted.

- Applicants should therefore be encouraged to use a variety of methods depending on the circumstances of each particular application. For example through workshops, information leaflets, etc
- The term 'community' should be taken in the widest sense and should include groups identified under section 75 of the Northern Ireland Act 1998 and all those with an interest in development in an area.
- **Benefits:** it is hoped this will improve the quality of planning applications received; mitigate negative impacts where possible; address community issues or misunderstandings; and provide smoother and faster decision making.
- This will ultimately benefit the community, the prospective applicant and the environment overall.

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- Another key aspect of early engagement and complementary to Pre-application community consultation (PACC) is Pre Application Discussions (PADs).
- Pre app discussion provides an opportunity for Councils to engage with developers, overcome hurdles, identify gaps in information and ultimately get a better quality of application.
- Non-statutory and no fee as yet. However, a worthwhile exercise in the planning process.
- Existing guidance on PADs/PACC (non stat) on website (www.planningni.gov.uk)

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- On submission of Major application, Pre-Application Consultation Report (PACR) must be submitted to the satisfaction of the Council.
- Must demonstrate the community consultation process.

- Council may require additional consultation or if it is clear that applicant /developer has not engaged, can decline to determine the application – no right of appeal.

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- Design and Access Statement (DAS) - another supporting document for Major development (and other instances)
- It provides a framework for applicants to explain how a proposed development is a suitable response to the site and its setting, and demonstrate that it can be adequately accessed by prospective users.
- A DAS must explain the design principles and concepts that have been applied to the development. It must also demonstrate how the proposed development's context has influenced the design.
- The level of detail in a Design and Access Statement should be proportionate to the complexity of the application, but should not be long. For most straightforward planning applications the DAS may only need to be a page long. Therefore a statement for a major development is likely to be much longer than one for a single building.

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- Although I have mentioned the need for a Design and Access Statement (DAS) for major development, it is important to note that a DAS would also be required for other types of local and regionally significant developments as well.
- As you can see from the slide a DAS is required.....

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- Regionally Significant Developments (RSD) is top slice of Major Category that will be set in legislation.

- Will be detailed in legislation
- Smallest category in terms of numbers.
- Must be first submitted to the Department for consideration.

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- *As per slide*

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- Focused on hierarchy so far
- Further reforms to reflect the new 2 tier system and to improve efficiency of Development Management system.
- Call-in by Department – envisaged to affect a very small number of applications (refer to numbers elsewhere).
- Pre-determination hearing – allows Councils to examine issues in more detail where necessary.
- Duty to respond – to improve consultee response times. *Consultees will discuss further.*
- Neighbour Notification (NN) – Statutory requirement – based on current non-stat scheme.
- Non material change – to introduce flexibility to the system.

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- With these few points highlighted, I would like to conclude by saying that the reformed development management system will bring a number of worthwhile improvements to the planning system.
- I would encourage you all to make yourselves aware of the changes and legislative requirements. Practice notes will be published as legislative programme develops.

Thank you