



Department of the
Environment
www.doeni.gov.uk

DILAPIDATED/DANGEROUS BUILDINGS AND NEGLECTED SITES

POLICY CONSULTATION

March 2016

CONTENTS

MINISTER’S FOREWORD	2
1. CONSULTATION DETAILS	3
2. BACKGROUND	8
3. STAKEHOLDER ENGAGEMENT	10
4. SCALE OF THE PROBLEM	11
5. POLICY ISSUES	12
6. OPTIONS	17
7. PREFERRED OPTION	24
8. POTENTIAL SCOPE OF A NEW BILL	26
ANNEX: LIST OF QUESTIONS	41

MINISTER'S FOREWORD



As Minister of the Environment I have a responsibility to protect and enhance the environment as a whole but in doing so my Department also contributes significantly to the wider economy, public health, public safety, tourism, regeneration and the reduction of anti-social behaviour.

While we live in a truly beautiful part of the world, there is no getting away from the fact that dilapidation is an issue for us. The challenging economic climate of recent years has exacerbated the situation, particularly with regard to our town centres. While my Dereliction Intervention Funding initiative has made a real difference in many areas, particularly in support of high profile events, more needs to be done.

The introduction of local government reform last year has brought this issue into sharp focus and it is vital that councils should be given the tools they need to deal effectively with the issues they face under their enhanced remits. Giving councils more effective means to deal with the issues associated with dilapidation is directly relevant to many of their new functions such as planning, local economic development, community development and local tourism.

This consultation outlines proposals for a new, broader regime to deal with dilapidation, one that gives councils effective powers to tackle the most dilapidated and dangerous buildings and neglected sites, but also allows them to compel property owners to take action to prevent such dilapidation and neglect occurring in the first place.

I would encourage you to consider these proposals carefully and take an active role in shaping the final proposals for a new, fit for purpose regime to deal with the blight of dilapidation.

1. CONSULTATION DETAILS

- 1.1. In this consultation document the Department of the Environment (“the Department”) sets out policy proposals for enhancing the ability of district councils to tackle the problem of dilapidated/dangerous buildings and neglected sites.
- 1.2. A range of options is outlined – from purely administrative arrangements to the introduction of new primary legislation that would give councils additional powers to deal with the issue. These options indicate general approaches rather than detailed legislative proposals, which will be formulated in light of the responses to this exercise and consulted upon at a later date.
- 1.3. The purpose of this consultation is to seek the views of all interested parties on the Department’s proposals. The consultation will run for 16 weeks. The Department will give due consideration to all responses and a synopsis of responses will be published as soon as practicable following the consultation period.
- 1.4. Additional copies of this consultation document may be made without seeking permission. This document is also available in alternative formats; please contact us to discuss your requirements. The Department’s textphone number (028 9054 0642) has been included to assist the hearing impaired.

The document is published on the Department’s website at:

<https://www.doeni.gov.uk/articles/dilapidation>

If you have any queries regarding this consultation please contact the Dilapidation Policy team by [e-mail](#), by post to the address below or by telephone on 02890 254996.

How to Respond

- 1.5. Early responses are encouraged but all responses should arrive no later than 5pm on 30 June 2016. Responses may be sent by email to dilapidation.law@doeni.gov.uk or by post to:

Karl Beattie

Department of the Environment
Regulatory and Natural Resources Policy Division
6th Floor
Goodwood House
44-58 May Street
Belfast BT1 4NN

- 1.6. When you are responding please state whether you are responding as an individual or representing the views of an organisation. Before you submit your responses please read the "Freedom of Information Act 2000 - Confidentiality of Consultation Responses" section below, which gives guidance on the legal position.

Equality Screening

- 1.7. Section 75 of the Northern Ireland Act 1998 requires that public authorities have due regard to equality issues in carrying out functions relating to Northern Ireland. We have completed an equality screening of the policy proposals being consulted upon and have concluded that they do not impact on equality of opportunity for any of the 9 categories specified in section 75 (religious belief; political opinion; race; age; marital status; sexual orientation; men and women generally; disability; and dependants).

Question: Is there any evidence of higher or lower participation or uptake by different groups?

Answer: No

Question: Is there any evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?

Answer: No

Question: Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in government or the community at large?

Answer: No

Question: Have consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them.

Answer: No

The Equality Commission will receive copies of this consultation document as part of the consultation exercise. We will take into account any comments that the Commission might have.

Human Rights Act 1998

- 1.8. The Human Rights Act 1998 implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. Since the implementation of the Human Rights Act 1998, all legislation must be checked to ensure compliance with the European Convention rights.
- 1.9. The proposals being consulted upon will have a positive impact with regard to human health, public safety and environmental quality. Any potentially negative impact will be an economic cost upon owners of dilapidated/dangerous properties and neglected sites. The Department recognises that there may be perceived issues in respect of Protocol 1, Article 1: Protection of Property, and Article 8:

Private and Family Life but considers that its proposals take account of these rights and are therefore fully compliant with the European Convention on Human Rights.

- 1.10. The Human Rights Commission will receive copies of this document as part of this consultation. We will take into account any comments that the Commission might have.

Rural-Proofing

- 1.11. Rural Proofing is a process to ensure that all relevant Government policies are examined carefully and objectively to determine whether or not they have a different impact in rural areas from that elsewhere, because of the particular characteristics of rural areas. Where necessary the process should also examine what policy adjustments might be made to reflect rural needs and in particular to ensure that, as far as possible, public services are accessible on a fair basis to the rural community.

- 1.12. The Department has considered these policy proposals in relation to the rural community and has found no potential differential impacts.

Freedom of Information Act 2000 – Confidentiality of Consultations

- 1.13. The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can refuse to disclose information only in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

- 1.14. The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority (the Department in this case). This right of access to information

includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

1.15. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances.

1.16. The Lord Chancellor's Code of Practice on the Freedom of information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature;
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses, please contact the Information Commissioner's Office:

Tel: (028) 9051 1270

Email: ni@ico.gsi.gov.uk

Website: www.informationcommissioner.gov.uk

2. BACKGROUND

2.1. The Department of the Environment's mission is to:

'Protect and improve the environment, promote well-being, and support a sustainable economy and strong effective local government'.

2.2. Each element of that mission is inextricably linked with the issue of dilapidated/dangerous buildings and neglected sites, which negatively affect visual amenity, public health and economic growth, and encourage anti-social behaviour.

2.3. Also, the transfer of functions from central to local government from April 2015 is highly relevant. Effectively dealing with the problem of dilapidation has obvious potential to support the councils' new functions of planning, local economic development, community development, and local tourism. It is also envisaged that councils may assume responsibility for urban regeneration and certain aspects of housing at a later date. Again, these are areas to which effective dilapidation policy can contribute.

2.4. Although originally propounded in respect of policing, the "Broken Window Theory" (Kelling and Wilson, 1982)¹ is equally valid in respect of local environmental quality. The theory suggests that:

"...if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken. This is as true in nice neighbourhoods as in rundown ones. Window-breaking does not necessarily occur on a large scale because some areas are inhabited by determined window-breakers whereas others are populated by window-lovers; rather, one unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing."

¹ Kelling, G.L. and Wilson, J.Q. (1982) Broken Windows: the police and neighbourhood safety. *The Atlantic Monthly*, March

There is much research supporting the basic tenet of the theory and reinforcing the idea that such problems are not confined to economically or socially deprived areas. Research has shown that similar issues arise in more affluent areas too, albeit a little more slowly.

- 2.5. Dealing effectively with dilapidation and neglect cannot, on its own, address the issues of anti-social behaviour and economic deprivation but it clearly has a part to play. Referencing the broken window theory, Barbara Porada (2013)² said:

"The idea is simple, but powerful: bad habits spread quickly, but good ones, with strength and continuity, can displace the bad. How many things decline because of our indifference to the very first signs that something isn't right?"

- 2.6. While certain aspects of the issue have been addressed through the Clean Neighbourhoods and Environment Act (NI) 2011, much of the pertinent legislation dates back to the 19th century while other relevant legislation that is in operation in other parts of the UK and the Republic of Ireland has never been replicated in Northern Ireland.

- 2.7. There are a number of discrete types of problem sites to be considered under the umbrella of dilapidation policy:

- Public health nuisance;
- Property in a dilapidated or ruinous state;
- Dangerous buildings; and
- Neglected sites.

Within the councils in Northern Ireland, these types of sites are dealt with by the environmental health and building control departments.

² Porada, B (2013) How to Design Safer Cities. *ArchDaily.com*, February 19

- 2.8. The lack of a modern effective enforcement regime is seen as a barrier to local government efforts to maintain and improve their areas for the benefit of citizens, tourists and businesses. There are countless examples in town centres throughout Northern Ireland of the problems facing them. The vacant, and increasingly derelict, shop fronts and other structures that populate many of our town centres make it very difficult for councils to regenerate, attract new investment and encourage tourism.
- 2.9. The Dereliction Intervention Funding that the Department has provided to councils has made a significant contribution to improving the appearance of the most run down areas and has been particularly important in supporting the positive promotion of Northern Ireland through major events like the G8 Summit, the Giro d'Italia and the Irish Open golf.
- 2.10. However, the Department has decided that a more fundamental review of the legislative provisions to deal with dilapidation is required and this consultation is part of that process. Ultimately, the desired outcome is that councils will have access to an effective, fit for purpose, regime that is applied consistently and proactively across all council areas, thereby enhancing the environment for all.

3. STAKEHOLDER ENGAGEMENT

- 3.1. The Department initiated engagement with the local government sector through two "blight summits" and these were followed up by correspondence from Minister Durkan to council Chief Executives, encouraging them to determine the scale and scope of the problem in their areas.
- 3.2. In March 2014, as part of a review of existing Northern Ireland legislation (and pertinent legislation in other jurisdictions), DOE officials circulated a discussion paper to key stakeholders. By the

closing date of 30 June 2014 the Department had received 20 substantive responses from a range of sectors.

- 3.3. The vast majority of respondents to the discussion paper were supportive of the general concept of providing a modern, fit for purpose, regulatory regime to deal with dilapidated/dangerous buildings and neglected sites although there were differences of opinion regarding the detail of how such a regime should be implemented.
- 3.4. Further detailed discussions have been held with key stakeholders and feedback from these discussions indicates that practitioners see the priorities that need to be addressed as being:
 - more robust cost recovery provisions;
 - wider powers, similar to those available to local authorities in England and Wales;
 - a streamlining of disparate regimes with enhanced clarity for practitioners and property owners alike.

4. SCALE OF THE PROBLEM

- 4.1. It is difficult to accurately assess the scale or the scope of the problem across Northern Ireland as a whole as there is limited data available. Although there is good data for the Belfast City Council area this cannot simply be extrapolated across the rest of the council areas due to the rather different character of Belfast in terms of size, age of housing stock, higher level of industrialisation etc.
- 4.2. Further detailed work will need to be carried out, not only to assess the scale of the problem across Northern Ireland but also to estimate the potential costs and benefits of introducing an enhanced regulatory regime. All available data will be considered and used to

develop a robust Regulatory Impact Assessment to support final legislative proposals, which will be informed by this consultation.

5. POLICY ISSUES

Scope

- 5.1. Perhaps the most fundamental issue is what the scope of any new regime should be. There are a number of existing regimes, some of which apply only in certain geographical locations, and exemplar regimes that operate in the rest of the UK and in other jurisdictions such as the Republic of Ireland.
- 5.2. Existing relevant Northern Ireland legislation available to the councils includes:
 - Article 65 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (used by a number of councils to address certain public health nuisances);
 - Article 66 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (deals with ruinous/dilapidated buildings and structures that are “seriously detrimental to the amenities of the neighbourhood” and is the most commonly used NI-wide legislation);
 - The Belfast Improvement Act 1878 (frequently used by Belfast City Council but not available elsewhere in Northern Ireland);
 - The Belfast Corporation Act 1911 (available only to Belfast City Council);
 - The Town Improvement Clauses Act 1847 (available to all councils except Belfast and Derry);
 - The Town Improvement (Ireland) Act 1854 (available to all councils except Belfast and Derry);

- Public Health Acts Amendment Act 1907 (available to all councils);
- The Londonderry Corporation Act 1918 (available only to Derry City Council);
- Section 64 of the Planning Act (Northern Ireland) 2011 provides for the relevant council to issue a “Completion Order” to require a development which has a time bound planning permission, and which has been commenced, to be completed within a time limit of at least 12 months. However, a completion order cannot take effect without the confirmation of the Department;
- Section 73 of the Planning Act (Northern Ireland) 2011 provides for a council to issue an order requiring a particular land use to stop or require the alteration or removal of any building or works in the interests of proper planning or amenity (the use of this power may impose a duty on the NI Housing Executive);
- Section 161 of the Planning Act (Northern Ireland) 2011 provides Councils with the power to carry out urgent work to preserve a listed building or, on the direction of the Department, a building in a Conservation Area. Such works ‘may consist of or include works for affording temporary support or shelter for the building’.

Those pieces of legislation that apply only to a restricted geographical area are referred to as the “Local Acts”.

5.3. Other relevant legislation exercisable by other bodies in Northern Ireland includes:

- Chapter 2 of the Housing (Northern Ireland) Order 1981 gives wide-ranging powers to the Housing Executive to clear areas,

order demolition, issue repair notices etc. in respect of any house that is unfit for human habitation;

- Chapter 5 of the Housing (Northern Ireland) Order 1981 gives powers to the Housing Executive to carry out works of repair or improvement to, secure or demolish any unoccupied house;
- Part 3 of The Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 provides for the Department for Social Development (with the approval of the Department of Finance and Personnel) to acquire, carry out works on, and dispose of, land for the purposes of restoring or improving the appearance of a derelict site or of improving the amenities of the neighbourhood of a derelict site.

5.4. Additional legislation that may be considered as a model for new Northern Ireland legislation includes:

- **Part 8 of The Town and Country Planning Act 1990**, which gives councils in England and Wales powers to deal with a wide range of sites that impact on visual amenity, generally referred to as "Section 215 powers";
- **Part 3 of The Building Act 1984**, which applies only to England and Wales. While Articles 65 and 66 of the Pollution Control and Local Government (NI) Order 1978 transpose sections 76 and 79 of the Building Act 1984, other provisions of the 1984 Act, in respect of dangerous buildings and emergency actions for example, have not been replicated in Northern Ireland;
- **The Derelict Sites Act 1990**, which applies only to the Republic of Ireland, provides for action to be taken to deal with: structures that are in a ruinous, derelict or dangerous condition; land that is in neglected, unsightly or objectionable condition; or the presence, deposit or collection on land of any

litter, rubbish, debris or waste. On the face of it, the enforcing authorities appear to have wide-ranging powers, including compulsory purchase, the establishment of registers of derelict sites and the imposition of a derelict site levy.

Cost Recovery

- 5.5. One of the major issues highlighted by stakeholders is cost recovery where, for example, a district council undertakes work on a dilapidated or dangerous building and then seeks to recoup the cost from the owner. The provision of robust and effective measures to ensure that the appropriate person or organisation pays for the necessary remedial actions is key to minimising costs to the public purse and preventing unscrupulous property owners from deriving financial benefit from letting buildings fall into disrepair.
- 5.6. While legislative provisions to allow regulatory authorities to recover incurred costs are neither unusual nor difficult to include in new legislation, there are still scenarios that may make it difficult for councils to recover their costs. It is common, for example, for legislation to include provision to register a charge on land in such cases. However, existing property law conventions dictate that, in most circumstances, the priority of such charges reflects the chronological order in which they were registered and thus an existing mortgage would retain priority over a subsequent land charge.
- 5.7. While there are examples of land charges that have statutory priority over existing mortgages etc. and provisions that effectively set aside prior charges (including the power of sale provisions in the Belfast Improvement Act 1878), legal advice suggests that great caution should be exercised when using such provisions, to avoid breaching current human rights legislation. On a practical level, the opportunities for using such provisions may be few and far between.

- 5.8. Also, when taking into account human rights issues, there is a need to ensure that any new legislative provisions are proportionate. For example, sites that might be covered by a new regime could range from relatively minor clean-ups to major repairs or demolition. There will be a need to ensure that provisions are applied proportionately, either through the use of statutory guidance or requiring, for example, a court order to apply more stringent sanctions such as enforced sale.
- 5.9. Further difficulties arise when dealing with property owned by insolvent companies, bankrupt individuals or properties subject to repossession proceedings by financial institutions. In these cases it can be practically impossible to recoup costs. As the relevant legislation in such scenarios does not fall within DOE's remit it cannot solve these issues on its own.

Guidance

- 5.10. As a number of councils have expressed a reluctance to use the provisions of the Pollution Control and Local Government (NI) Order 1978 due to concerns about its interpretation, there is a clear need for the Department to provide appropriate guidance to help them to interpret and apply the legislation in a consistent fashion.
- 5.11. There is, however, a risk that over-prescriptive guidance could unnecessarily fetter council officials and restrict their ability to use discretion and apply professional judgement. It is envisaged that any guidance would be developed with significant input from professional council officers to help to alleviate such concerns.
- 5.12. Under existing legislation any guidance produced by the Department would have to be non-statutory as the necessary powers to make statutory guidance do not currently exist. The introduction of new primary legislation would, of course, allow us to produce statutory guidance. While case law suggests that the courts will view even

non-statutory guidance as binding, providing it is authoritative, expert and represents best practice, for the avoidance of doubt, statutory guidance may be desirable.

Heritage Issues

- 5.13. The protection of our built environment is a key issue for the Department and stakeholders have highlighted a number of issues to consider as part of the process of reviewing legislation on dilapidated/dangerous buildings.
- 5.14. In particular, concern has been expressed that, under current legislation, there is no special consideration or protection afforded to listed buildings etc. and no requirement to consult with the Department prior to issuing notices in respect of dangerous buildings. It is suggested by stakeholders that this has resulted in the loss of a number of buildings.
- 5.15. Stakeholders are keen that any new or amended legislation should properly address heritage issues and be more proactive, allowing action to be taken at a much earlier stage, thereby preventing avoidable decay in important buildings.

6. OPTIONS

- 6.1. The Department has considered a range of options, from retaining the status quo, through revised administrative arrangements, to the consolidation, amendment and extension of existing legislation. The merits of each option are detailed below while the next section outlines the option that the Department is currently minded to progress.

Option 1: Do Nothing

- 6.2. As always in an exercise of this nature the “do nothing” option has to be considered.

- 6.3. Through previous stakeholder engagement the Department has identified considerable variance in the implementation of existing legislation. Lower levels of activity in certain areas are due to a range of factors (principally resource issues and interpretation of the existing legislation) that cannot be addressed by doing nothing. If we do nothing then nothing will change.
- 6.4. While this option would certainly deliver the lowest cost (in terms of short-term financial resources), it would not deliver any of the benefits (monetary or non-monetary) of bringing dilapidated buildings and neglected sites into beneficial use – e.g. improving the visual amenity of neighbourhoods, stimulating economic regeneration, supporting the tourist industry’s efforts to promote Northern Ireland as a destination and reducing anti-social behaviour.
- 6.5. It has been suggested by some that an upturn in the economy will automatically apply a corrective hand to the problem of dilapidation as it becomes more economically viable to develop or redevelop these problem sites and, to some extent, that is probably true. However, it is important to remember that many of the potential problem sites identified by local councils have not suddenly appeared since the economic downturn – some have been an issue for several decades.
- 6.6. With the exception of the short term cost implications there is little to recommend this option.

Option 2: Department issues non-statutory guidance

- 6.7. As previously stated, current legislation does not permit the Department to issue statutory guidance to the councils and therefore it may be perceived that any guidance would not carry any legislative weight. However, there is much case law supporting

the view that non-statutory best practice guidance may be just as binding as statutory guidance.

6.8. For example, in *Ali v London Borough of Newham*³ Mr Justice Kenneth Parker stated:

"In my view, the weight that should be given to particular guidance depends upon the specific context in which the guidance has been produced. In particular (without intending to create an exhaustive list) I believe that it is necessary to give due regard to the authorship of the guidance, the quality and intensity of the work done in the production of the guidance, the extent to which the (possibly competing) interests of those who are likely to be affected by the guidance have been recognised and weighed, the importance of any more general public policy that the guidance has sought to promote, and the express terms of the guidance itself. In my view, it would be unwise for the court to descend into the intrinsic merits of the guidance, unless it was seriously contended that it was unlawful or very obviously defective."

Essentially, this judgement holds that guidance may be binding because it is authoritative and expert, rather than because it is labelled as "statutory".

6.9. This case law removes some of the perceived drawbacks of being unable to issue statutory guidance. It can therefore be presumed that well written, authoritative, non-statutory guidance is likely to be regarded as binding by the courts and would undoubtedly be of benefit to practitioners in some councils.

6.10. Such guidance could include, for example, procedures, technical issues, policy direction, examples of sites that may fall under the

³ [Ali v London Borough of Newham \[2012\] EWHC 2970 \(Admin\) \(30 October 2012\)](#)

regime etc. but would fall short of a definitive legal interpretation of the legislation – as that can only be given by the courts.

6.11. Guidance (either statutory or non-statutory) for new legislation would be extremely useful, or even essential, but guidance alone cannot, in the Department's view, address the weaknesses identified in current legislation and so benefits are likely to be somewhat limited.

Option 3: Bill to amend and consolidate existing legislation

6.12. This option would involve a "tidy up" of existing DOE legislation, such as the Pollution Control and Local Government (Northern Ireland) Order 1978 and the "Local Acts", amending powers and procedures as required to improve the effectiveness of the regime(s) and consolidating their provisions in a single enactment.

6.13. This approach could provide for the making of subordinate legislation to provide greater procedural clarity, and allow the Department to issue statutory guidance to councils.

6.14. This option would not involve the introduction of new regimes like, for example, those in force in England and Wales, the Town and Country Planning Act 1990 (section 215 etc.) in respect of visual amenity, and the Building Act 1984 in respect of emergency provisions for dangerous structures.

6.15. It would also not be possible to extend the provisions of the "Local Acts" to the whole of Northern Ireland (even if it were considered desirable to do so) through this type of Bill, precluding the possibility of delivering a single consistent regime throughout Northern Ireland. Specific elements of the Local Acts could, of course, be re-enacted on a NI-wide basis but this, effectively, would be new legislation.

6.16. As previously discussed, non-statutory but authoritative best practice guidance may be regarded by the courts as binding but, for

the removal of doubt, the power to publish statutory guidance could easily be included in a Bill of this nature. The technical aspects of any statutory guidance would be developed in conjunction with the relevant councils to ensure that practitioners were not unduly fettered.

6.17. Providing no additional statutory duties were introduced by such a Bill then no significant additional costs would be imposed on the councils. However, it would be hoped that improving the clarity of the legislation and making it more workable would increase the activity levels of councils.

6.18. While this option is likely to improve the clarity and workability of the existing legislation, these improvements would be relatively modest and would not broaden the scope of the legislation to any great degree, and would not therefore deal with some of the fundamental deficiencies of that legislation.

Option 4: A Bill to introduce a new broader regime dealing with dilapidated/dangerous structures, neglected sites and a range of visual amenity issues

6.19. This option would, essentially, provide a completely new regime that would seek to encompass all of the relevant elements of the existing legislation alongside new provisions based on existing legislation in other jurisdictions, such as the Town and Country Planning Act 1990.

6.20. The introduction of a new regime would allow us to better shape a fit for purpose regime that would be appropriate for a wide range of scenarios. A multi-tiered approach, with different sanctions available for cases of varying magnitude, might be considered. In keeping with the Department's Better Regulation agenda, there may also be potential to utilise administrative penalties for lower grade cases.

6.21. Enhanced procedures to allow for appropriate protection of heritage sites could also be built into such a Bill, addressing the problems

identified with the existing legislation – i.e. the potentially perverse incentive to allow heritage buildings to fall into disrepair with a view to subsequent demolition. However, as noted in paragraph 5.2, councils do have access to powers under section 161 of the Planning Act 2011, enabling them to carry out urgent works in respect of protected buildings. Cost recovery for such works is through conventional civil debt procedures.

6.22. Under this approach consideration would also need to be given to the issue of statutory duties for councils in respect of dilapidated/dangerous buildings and neglected sites – i.e. should councils be given: (a) additional powers but no statutory duty; (b) additional powers and a duty to inspect (but not necessarily take action); or (c) additional powers and a duty to take appropriate action.

6.23. Councils currently do not generally have statutory duties in this area, with the exception of dealing with statutory nuisances under Part 7 of the Clean Neighbourhoods and Environment Act 2011, whereby councils are required to inspect, investigate and serve abatement notices.

6.24. In an ideal world the councils would be given both powers and statutory duties to try to ensure that the regime was implemented effectively and consistently. However, if additional statutory duties were to be imposed, central government funding for these activities would need to be secured over a significant period of time. In the current economic climate it is extremely unlikely that such funding could be secured and so it is not envisaged that any additional statutory duties would be imposed on the councils at this time.

6.25. This option would give councils an effective tool to encourage the regeneration and revitalisation of their areas, particularly the town centres that have suffered considerable decline over the years. While potential costs of effective implementation may be higher

than the other options the potential benefits would significantly outstrip the costs.

6.26. It is recognised that effective implementation of this option would require councils to allocate adequate resources but it is felt that the economies of scale resulting from the new local government model enhances their capacity to do so. Given their wider remit, it is considered appropriate for councils to take responsibility for determining the priority of this issue for their areas and resourcing it accordingly.

6.27. There are a number of ways that the potential financial implications could be managed. These include:

- strategic prioritisation of potential problem sites to agreed criteria would help to ensure that available resources are deployed in the most effective manner and that value for money is maximised;
- the inclusion of robust and effective cost recovery provisions will reduce the amount of funding required for both revenue and capital expenditure;
- a charging scheme for surveys, inspections etc. associated with determining buildings as dangerous, similar to the provisions of the London Borough of Tower Hamlets (Dangerous Structure Fees and Expenses) Regulations 2013;
- phased commencement of the provisions of the Bill would allow the costs of implementation to be managed more effectively, with the new broader provisions introduced when appropriate funding is available.

7. PREFERRED OPTION

7.1. There are, essentially, two main questions to consider when deciding upon a preferred course of action in respect of dilapidated/dangerous buildings and neglected sites:

- (a) what are the deficiencies of the current legislation; and
- (b) how do we ensure the consistent application of the relevant legislation across all of Northern Ireland?

7.2. With regard to the first of these questions, it is quite clear from previous stakeholder engagement that practitioners have identified a number of issues with existing legislation, including:

- lack of clarity on interpretation of the legislation;
- inadequate cost recovery provisions;
- inability to deal with less serious dilapidation issues that, according to the “broken window theory”, will inevitably escalate into greater problems;
- different legislation applying to different geographical areas of Northern Ireland; and
- difficulties applying the legislation in a way that complies with the Human Rights Act 1998.

7.3. The second question, on ensuring consistency, comes down to three main things:

- effective guidance;
- available resources – financial, legal and technical; and
- consistent NI-wide legislation.

7.4. Option 1, the “do nothing” option does not address any of these issues and can only be realistically considered if no funding or staff resources can be secured to take the policy area forward.

- 7.5. Option 2, the provision by the Department of additional non-statutory guidance to the councils, could certainly address the clarity issue and perhaps help in respect of human rights compliance. However, it cannot deal in any way with the other issues identified. Costs in respect of this option would be relatively low but benefits would be equally so.
- 7.6. Option 3, the consolidation and amendment of existing legislation through the introduction of a Bill, would address many of the points listed at 7.2 and 7.3 above and would certainly move the agenda forward. Enhanced clarity could be achieved through guidance along with more effective cost recovery provisions and improved human rights compliance but a simple amending Bill may not achieve a fully consistent regime throughout Northern Ireland. Costs of this option would fall somewhere between Options 2 and 4.
- 7.7. Option 4, the comprehensive overhaul of existing legislation and the broadening of powers to bring parity with legislation in other jurisdictions, would address all of the issues raised by stakeholders and give the district councils the modern, fit for purpose regime that they feel they need to deal effectively with issues of dilapidation. It would, of course, be the most expensive option but also the one expected to reap the greatest benefits.
- 7.8. Of course, many other permutations of the provisions outlined in the options above are possible too. For example, Option 3 could also contain provisions that would cherry-pick the most useful provisions of the Local Acts and re-enact them on a Northern Ireland wide basis.
- 7.9. However, on the basis of the information currently available, it is felt that the preferred option in this case should be Option 4, the introduction of a comprehensive Bill to consolidate, amend and broaden existing provisions in respect of dilapidated/dangerous buildings and neglected sites.

QUESTION 1: Do you agree that Option 4 should be the preferred option? If not, please indicate your preferred option and the reasons for that preference.

8. POTENTIAL SCOPE OF A NEW BILL

8.1. While the detail of a new Bill would be considered and developed in light of the responses to this consultation, it is envisaged that the following issues will form part of those deliberations.

Articles 65 & 66 of the Pollution Control and Local Government (NI) Order 1978

8.2. Although it is probably fair to say that most public health issues are dealt with under statutory nuisance legislation (such as the Clean Neighbourhoods and Environment (NI) Act 2011) there are circumstances, such as where time is of the essence, in which Article 65 of the Pollution Control and Local Government (NI) Order 1978 is employed (around 50 times per annum by Belfast City Council).

8.3. Article 65, which corresponds to section 76 of the Building Act 1984 in England and Wales, allows the relevant council to issue a notice to an appropriate person stating its intention to carry out works to remedy the defective state. If the person on whom the notice was served does not issue a "counter-notice" within 7 days, then the council may commence works 9 days after the original notice was issued. If a counter-notice is served, the person serving the notice must commence and complete work within a reasonable time. There are no criminal penalties associated with this Article.

8.4. This Article is regarded by practitioners as a useful provision, particularly where there is a nuisance that needs to be abated but the owner cannot be traced. It is generally not used to deal with public health nuisances to occupied housing that emanate from

adjacent unoccupied premises because the Northern Ireland Housing Executive has powers under Article 63 of the Housing (NI) Order 1981 to deal with such cases.

- 8.5. The provisions of Article 65 are confined to public health nuisances resulting from the state of the premises. These are taken to mean circumstances that could affect health (e.g. causing disease or other medical conditions etc.) rather than cause physical injury. It is also considered that it would be difficult to effectively use Article 65 to deal with anti-social behaviour.
- 8.6. Article 65 contains provisions for the council to recover the expenses it has reasonably incurred in carrying out works. This requires court proceedings during which the court must consider if the council was justified in determining the premises as being in a "defective state", that undue delay would have occurred if other statutory nuisance legislation was used and, if relevant, that the defendant failed to commence or complete works in a reasonable time.
- 8.7. A district council cannot serve an Article 65 notice in respect of a building that is "listed".
- 8.8. The Department is considering consolidating this provision within a new Bill and amending it to:
 - allow action to be taken more quickly in emergency situations;
 - broaden its scope to explicitly include potential physical injury and/or anti-social behaviour;
 - provide more robust and effective cost recovery provisions, possibly including the ability to place a legal charge on the property;
 - introduce appropriate criminal and/or administrative sanctions.

8.9. The Department also wishes to consider if there may be circumstances where it may be appropriate to allow a relevant notice to be served, with effective safeguards, on a listed building.

QUESTION 2: Do you agree with the Department's approach to consolidating and amending Article 65 of the Pollution Control and Local Government (NI) Order 1978? If not, please comment on the specific issue(s) causing concern.

8.10. Article 66 of the 1978 Order gives district councils the power to deal with ruinous and dilapidated buildings and neglected sites. Article 66 corresponds to section 79 of the Building Act 1984 in England and Wales.

8.11. Where a council determines that a building or structure is "*...by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood...*" it may issue a notice requiring the owner to carry out necessary repairs or restoration or, if he so elects, demolish all or part of the building.

8.12. Article 66 also covers "*...rubbish or other material resulting from or exposed by the demolition or collapse of a building or structure...*" that is "*...seriously detrimental to the amenities of the neighbourhood...*", but not rubbish or materials resulting from any other source.

8.13. Unlike the Building Act, the 1978 Order does not define "building". While councils have not reported any specific difficulty arising from this omission, it seems prudent to include a definition similar to that provided in section 121 of the Building Act.

8.14. Criminal penalties are included in Article 66 for the offence of failing to comply with a notice and could result in a fine not exceeding level 4 on the standard scale (currently £2,500). If he subsequently fails to comply with the notice, a daily fine not exceeding level 3 on the

standard scale (currently £1,000) may also be imposed. The court may not, however, make an order requiring that person to comply with the original notice.

8.15. The council may carry out the required works itself when the notice has not been complied with and recover its costs through normal civil debt recovery procedures.

8.16. Concerns have been raised about the term “seriously detrimental”, particularly with regard to whether visual amenity alone would be sufficient to meet this threshold. There are two basic ways to deal with this issue: (a) by removing the qualifier “seriously” from the legislation; or (b) by providing guidance on what might properly be regarded as “seriously detrimental”.

8.17. The provision allowing an owner to decide to demolish his building rather than repair it has been the subject of some debate amongst key stakeholders. Some have expressed a preference to retain the status quo while others would like councils to be able to dictate that the building is demolished, where that is the most appropriate course of action.

8.18. The Department is considering consolidating this Article within the new Bill and amending it to:

- also cover rubbish or material deposited from sources other than demolition or collapse;
- include a wide-ranging definition of “building”;
- provide a wider range of administrative and/or criminal penalties, including significantly higher fines for serious cases;
- allow courts to make an order requiring a notice to be complied with;
- provide more robust and effective cost recovery provisions, including the ability to place a legal charge on the property;

- give councils the option to register an Article 66 notice as a “statutory charge”, which in appropriate circumstances may allow a property to be sold but with the buyer being required to complete the works;
- allow councils to issue a notice requiring repair or demolition but also allowing the owner to take the alternative course of action with the council’s approval. This, and the fact that responsibility for local planning and dilapidation now both sit within the councils, would provide a greater level of protection to heritage buildings that previously could have been lost to demolition.

8.19. With regard to the use of the term “seriously detrimental”, the Department feels that this provision should generally be reserved for more serious cases of dilapidation and intends at this stage to deal with the issue by means of providing guidance. Lower level cases would be dealt with by means of separate provisions in the Bill. Guidance would give clarity to councils that an adverse effect on visual amenity alone may be captured by the regime.

QUESTION 3: Do you agree with the Department’s approach to consolidating and amending Article 66 of the Pollution Control and Local Government (NI) Order 1978? If not, please comment on the specific issue(s) causing concern.

Additional provisions similar to those contained within the Building Act 1984

8.20. The Building Act 1984 contains similar provisions to Articles 65 and 66 of the Pollution Control and Local Government (NI) Order 1978, but also contains a range of additional relevant provisions that have never been replicated in Northern Ireland.. The Department feels that some of these provisions would enhance the existing regime and should be included in the new Bill.

- 8.21. Section 77 of the Building Act relates specifically to dangerous buildings and the Department believes, for the purposes of clarity, it would be useful to introduce a similar provision for Northern Ireland in the new Bill. However, it is not proposed to follow the Building Act approach of applying for a court order requiring an owner to take steps to obviate the danger. This seems to be an unnecessary additional step, and one that does not sit easily with the existing provisions.
- 8.22. Section 78 addresses that issue to some extent in that it provides for a council to take action without applying to the court when there is a requirement to take "immediate action". Cost recovery provisions similar to those in Article 65 of the Pollution Control and Local Government (NI) Order 1978 are included and the Department would intend to take the same steps to reinforce and enhance those provisions as outlined above.
- 8.23. The Building Act 1984 also incorporates a range of ancillary provisions, dealing with issues such as powers of entry, form and service of documents, appeals etc. and it would be the Department's intention to include similar provisions where they are required.
- 8.24. The Department believes that, with proper amendment and transposition of the above provisions, the existing regime to deal with ruinous, dilapidated and dangerous buildings, and neglected sites would be significantly enhanced, particularly with regard to the more serious cases.

QUESTION 4: Do you have any comments regarding the Department's proposed approach to transposing these provisions of the Building Act 1984?

Other relevant existing legislation

- 8.25. As previously mentioned in this document (para. 5.2), there is a range of existing legislation that deals with similar issues, often within a defined geographical area. The provisions contained in these pieces of legislation are similar in purpose (but differ in detail) to the provisions of Articles 65 and 66 of the Pollution Control and Local Government (NI) Order 1978. The Department does not see any justification for retaining location-specific legislation.
- 8.26. In an effort to simplify and rationalise the relevant legislation, it is the Department's intention to repeal any duplicate or anachronistic provisions while ensuring that councils' ability to take effective action in respect of relevant buildings and sites is not compromised. This process is also important to ensure that the same legislation is available to all councils across Northern Ireland.
- 8.27. A specific example would be the "power of sale" provisions in Part IX of the Belfast Improvement Act 1878 which, on the face of it, give Belfast City Council very strong powers to recover costs where it carries out work in default. However, in reality, these powers can only be applied to a very small number of cases where specific circumstances exist (due to its unwieldy nature and concerns about compliance with the Human Rights Act). The new cost recovery procedures proposed for inclusion in the Bill would be more effective and human rights compliant and the similar Belfast Improvement Act powers would then be redundant.

QUESTION 5: Do you have any comments regarding the Department's intention to repeal the relevant provisions in location-specific legislation and re-enact necessary provisions in the new legislation?

Visual amenity – provisions similar to Town and Country Planning Act 1990

8.28. Local authorities in England and Wales have broad powers to deal with land adversely affecting the amenity of a neighbourhood provided by Chapter 2, Part 8 of the **Town and Country Planning Act 1990**. Section 215 of this Act contains a power to require “*proper maintenance of land*”. The wording of this power appears to be very broad – it states:

“If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.”

In this case the term “*land*” includes a building.

8.29. These powers are frequently, and effectively, used on “*large vacant industrial sites, town centre street frontages, rural sites, derelict buildings, and semi-complete development as well as the more typical rundown residential properties and overgrown gardens.*”⁴ The scope of works that may be required under a s215 notice includes: planting; tidying; enclosure; demolition; re-building; external repairs; repainting etc.

8.30. In addition to the fact that this regime encompasses “*land*” and not just buildings/structures, the key difference between this regime and the provisions of the Pollution Control and Local Government (NI) Order 1978 is that there is no requirement for a “*seriously detrimental*” effect on the amenities of the neighbourhood to trigger enforcement action. It is simply necessary for the amenity (which may be solely visual amenity) to be “*adversely affected*”.

⁴ Office of the Deputy Prime Minister (2005) *Town and Country Planning Act 1990: Section 215 Best Practice Guidance* (p.7)

- 8.31. Clearly there is potential for such a judgement to be very subjective and it would be necessary to provide clear guidance to councils to assist them to make these determinations. This type of guidance has been provided to local authorities in England and Wales and feedback from practitioners has been very positive.
- 8.32. The Department's intention is to introduce provisions to the new Bill that will replicate the relevant provisions of the Town and Country Planning Act 1990. Detailed guidance would accompany the legislation to give clarity to council officials and property owners as to what would constitute adversely affected amenity.
- 8.33. To simply introduce such provisions alongside the "Building Act" provisions, with similar penalties and sanctions, could result in the "Building Act" provisions becoming largely redundant. The Department believes that there should be a distinction made between the more serious public health or dilapidated/dangerous structure cases and those that are based largely on aesthetic issues. It is envisaged therefore that a two tiered regime would be brought into operation with more stringent penalties, sanctions and powers available to deal with the more serious cases but allowing the councils to choose which approach to take on a case by case basis.

QUESTION 6: Do you have any comments regarding the Department's intention to introduce provisions in the new Bill that would replicate powers available to local authorities in England and Wales under the Town and Country Planning Act 1990?

Abandoned or incomplete developments

- 8.34. One of the highly visible impacts of the property slump has been a significant increase in the number of unfinished and abandoned developments in Northern Ireland. In many cases these have become uneconomic to complete or the original developer has gone out of business. While a recovering market will eventually address

this issue, in the meantime these sites create a degree of blight across Northern Ireland.

8.35. Legislation exists under the Planning Act (NI) 2011 for councils to issue a "Completion Order". This requires a developer to complete the development within a reasonable period of time or face the possibility of planning permission being withdrawn. Councils also have powers under the 2011 Act to order the alteration or removal of any building or works in the interests of proper planning or amenity.

8.36. It is the Department's view that these powers are sufficient and appropriate to deal with the general issue of unfinished and abandoned sites and does not propose to include any additional provisions to the Bill to specifically deal with this problem. However, where an unfinished or abandoned site poses a danger it seems reasonable to allow the use of the dangerous buildings provision outlined at para. 8.21 above. It would also be possible to use the proposed "Visual Amenity" provisions where appropriate.

QUESTION 7: Do you agree with the Department's view that a combination of existing planning powers (transferred to the councils under Local Government Reform) and proposed new provisions in respect of dangerous buildings and visual amenity are sufficient to deal with unfinished or abandoned sites?

8.37. One of the issues raised by key stakeholders is the difficulty in identifying and locating the owners of property and the consequent difficulty of serving relevant notices on those owners. This is partly due to the different forms of land registration systems used over the years, the legacy of which is the significant proportion of land in Northern Ireland that remains unregistered.

- 8.38. The fact that land is unregistered does not in itself make it impossible to identify the owner. It does, however, require a different search process and while it may be more difficult and time consuming, it isn't necessarily so. In any case, the land registration system is outside the Department's remit and will form no part of the proposed Bill.
- 8.39. Even where the owner can be identified there may still be issues around locating the individual concerned or making them amenable. There are various methods available to assist councils to locate owners, including, for example, the use of specialist tracing agents.
- 8.40. The Department proposes to clarify, by means of guidance, what constitutes "reasonable efforts" to identify and locate relevant owners. The service of documents is already covered by the Interpretation Act 1954 but the Department may consider including prescribed requirements for the avoidance of doubt.
- 8.41. Concerns have also been raised that in certain circumstances councils may be forced to carry out works in default (e.g. where there is imminent danger) but may not be able to recover their costs because the property has been "repossessed" by an institution that holds a legal charge such as a mortgage against it. The term "repossessed" is something of a misnomer here as what often happens is that the financial institution does not take legal possession but instead appoints a receiver to manage the property. In such a case there is no "owner" and hence, no-one to recover costs from.
- 8.42. However, the financial institution can take possession immediately before selling the property and neither it nor the new owner would be exposed to liability. It is clearly unfair for a council to have to foot the bill for repairs that would result in the increased value or saleability of the property, where it could not recover any of those costs.

8.43. The Department is therefore exploring the possibility of either:

- (a) extending liability under the regime (in certain circumstances) to persons other than the owner; or
- (b) including provisions to allow a council to recover some or all of its costs from the beneficiary of such a scenario.

A provision of this sort would require a good deal of consideration to ensure there were not any unintended consequences. To be clear, this provision would be intended only to address situations that place an unfair burden on the public purse.

QUESTION 8: Do you agree with the Department's proposed approach to issues of ownership and, in particular, do you have any comments regarding the scenario outlined in paragraphs 8.42 – 8.44?

Cost Recovery

8.44. As previously discussed in Section 5, the recovery of costs for works carried out by councils is a key element of an effective regime. Even when works have not yet been undertaken by a council, effective powers to recover costs act as an incentive for property owners to take appropriate action themselves. It is right and proper that the burden of preventing and addressing dilapidation should fall to those who have a beneficial interest in the property concerned. Where those individuals or bodies cannot or will not face up to their responsibilities the council may choose to step in. However, when it does so it must be with the reasonable expectation of being able to recover its costs.

8.45. A range of measures is available under existing legislation, from the use of normal civil debt mechanisms to the enforced sale of property. There is little consistency between regimes and the

current measures available are not necessarily the most effective or efficient.

8.46. It is the Department's view that the means by which councils should be able to recover their costs should include:

- (a) normal civil debt procedures (court order from Small Claims Court or County Court, Enforcement of Judgements Office etc); and
- (b) the ability to register a charge on land using the powers contained in the Conveyancing Act 1881 (essentially the same powers available to mortgage lenders when borrowers default on payment).

In both cases the involvement of the courts is required which would largely address concerns in respect of compatibility with human rights legislation.

8.47. In addition, it is proposed that councils would be able to schedule repair notices as "Statutory Charges" on the Statutory Charges Register. This may be useful where an existing owner does not have access to the requisite funds to carry out repairs but could still sell the property to another party (with full knowledge of the statutory charge) who would then be subject to the terms of the notice.

8.48. Cost recovery provisions may also need to be underpinned by other measures such as administrative penalties (fixed and/or variable penalty notices, for example) and robust criminal penalties where appropriate.

QUESTION 9: Do you have any comments on the Departments proposed approach to cost recovery?

Guidance

- 8.49. Providing council officials with appropriate and authoritative guidance is a key way to ensure that a new regime is interpreted and applied consistently across all the council areas. Guidance will be provided – the only issue is whether that guidance will be statutory or non-statutory.
- 8.50. As discussed in Section 6 under Option 2, available case law tends to support the view that well-written authoritative guidance is binding whether it is published on a statutory basis or not. That said, for the avoidance of doubt, statutory guidance may still be regarded as preferable and, if that were the case, relevant powers would be included in the Bill. In either case, guidance will be drawn up in conjunction with the appropriate council practitioners and other stakeholders as required.

QUESTION 10: Do you think guidance for a new regime should be statutory or non-statutory?

Heritage Buildings

- 8.51. It is important that any new legislation does not result in a reduction in the level of protection afforded to heritage buildings. Indeed, the Department's aim is to ensure that new legislation should address concerns expressed regarding the lack of protection under certain circumstances in existing legislation.
- 8.52. At the same time the Department does not want a new regime to be unnecessarily unwieldy and will be looking to strike a balance between providing appropriate protection and ensuring works can be carried out in an expedient and cost effective manner, particularly where a building is in a dangerous condition.
- 8.53. One of the proposals already outlined above would go some way towards addressing concerns from stakeholders that existing

legislation is reactive and only allows action to be taken in respect of heritage buildings when significant deterioration has already taken place. While it is not specifically aimed at heritage buildings, the inclusion of provisions akin to Chapter 2, Part 8 of the Town and Country Planning Act 1990 would allow action to be taken at an earlier stage.

- 8.54. It is also possible that, for example, a requirement to consult the relevant Department before taking action could be enshrined either in legislation or its associated guidance to give an extra level of protection.
- 8.55. The issue of protecting heritage buildings is complex and technical and as such requires a good deal of further discussion with key stakeholders.

QUESTION 11: Do you have any specific comments regarding potential provisions to enhance the protection of heritage buildings?

QUESTION 12: Do you have any further comments on any of the issues raised in this document or are there any other important issues that you feel have not been covered?

ANNEX: LIST OF QUESTIONS

Q1	Do you agree that Option 4 should be the preferred option? If not, please indicate your preferred option and the reasons for that preference.
Q2	Do you agree with the Department's approach to consolidating and amending Article 65 of the Pollution Control and Local Government (NI) Order 1978? If not, please comment on the specific issue(s) causing concern.
Q3	Do you agree with the Department's approach to consolidating and amending Article 66 of the Pollution Control and Local Government (NI) Order 1978? If not, please comment on the specific issue(s) causing concern.
Q4	Do you have any comments regarding the Department's proposed approach to transposing these provisions of the Building Act 1984?
Q5	Do you have any comments regarding the Department's intention to repeal the relevant provisions in location-specific legislation and re-enact necessary provisions in the new legislation?
Q6	Do you have any comments regarding the Department's intention to introduce provisions in the new Bill that would replicate powers available to local authorities in England and Wales under the Town and Country Planning Act 1990?
Q7	Do you agree with the Department's view that a combination of existing planning powers (transferred to the councils under Local Government Reform) and proposed new provisions in respect of dangerous buildings and visual amenity are sufficient to deal with unfinished or abandoned sites?
Q8	Do you agree with the Department's proposed approach to issues of ownership and, in particular, do you have any comments regarding the scenario outlined in paragraphs 8.42 – 8.44?
Q9	Do you have any comments on the Departments proposed approach to cost recovery?
Q10	Do you think guidance for a new regime should be statutory or non-statutory?
Q11	Do you have any specific comments regarding potential provisions to enhance the protection of heritage buildings?
Q12	Do you have any further comments on any of the issues raised in this document or are there any other important issues that you feel have not been covered?