

Chief Planner's Office

All Heads of Planning (Northern Ireland)

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Our reference: CPU1

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Dear Colleague

CHIEF PLANNER'S UPDATE

I am pleased to announce the launch of the first Chief Planner's Update.

It is my intention to write to all Heads of Planning within councils in Northern Ireland to provide updates and guidance about various aspects of the planning system. This letter is the first of such updates which will be produced, as and when required, in order to provide information on particular planning issues relevant to councils.

The following is a summary of the main areas which may be of interest to you at this time.

Planning Legislation

Environmental Impact Assessment (EIA)

The Department is currently working on the transposition of the planning requirements of the revised EIA Directive (2014/52/EU) into domestic subordinate legislation. Member States are required to implement the revised Directive by 16 May 2017. The directive introduces a number of changes to the EIA process. These include a requirement for the co-ordination of assessments under the Habitats and Wild Birds Directives and the requirement to consider formalised monitoring conditions. The public consultation on the proposals to transpose the requirements of the revised EIA Directive into the Planning (EIA) Regulations (NI) 2017 launches today for a period of eight weeks ending on 9 February 2017.

Permitted Development

In a speech to the Assembly on 6 June 2016, responding to a motion calling for the protection of Woodburn Forest, the Minister announced that he proposed to remove permitted development rights for oil and gas exploration. The Department launched a public consultation on 8 December 2016 detailing the proposed changes to the Planning (General Permitted Development) Order (NI) 2015. The consultation closes on 3 February 2017, details of which can be found on the Planning Portal at:

http://www.planningni.gov.uk/index/news/dfi_planning_news/news_consultation-2/news-consultation-pd-rights-mineral-exploration.htm

Planning Policy

On 27 September the Minister announced his intention to commence a review into strategic planning policy for 'Renewable Energy' and 'Development in the Countryside'. This priority review of the Strategic Planning Policy Statement (SPPS) is expected to be completed in 2018, subject to Executive Committee agreement. External consultants will provide specialist research and advice for this work and undertake the Strategic Environmental Appraisal (SEA) on the Department's behalf. The process to procure these services is well underway. There will be opportunities for stakeholder engagement and public consultation next year.

Planning Guidance

The Department has recently issued four Enforcement Practice Notes namely: An Introduction to Planning Enforcement, The Legislative Framework, Investigative Approaches and Enforcement Procedures. The Enforcement Practice Notes are designed to guide planning officers and relevant users through the planning enforcement processes and deal primarily with procedures as well as good practice. These documents can be accessed on the Planning Portal at:

<http://www.planningni.gov.uk/index/advice/practice-notes/enforcement-practice-notes.htm>

The Department has also published an 'Overview of Planning Enforcement Responsibilities' which seeks to inform users of the planning system that, following the transfer of most planning functions to district councils on 1 April 2015, a council has the primary responsibility for planning enforcement in its given administrative area. Overall, it highlights the planning enforcement powers and responsibilities of a council, the reserve powers of the Department, strategic policy relevant to planning enforcement and the requirement to be in compliance with European Union legislation and associated regulations in relation to the planning enforcement process. This document can also be viewed on the Planning Portal at:

<http://www.planningni.gov.uk/index/advice/overview-planning-enforcement-responsibilities.htm>

Development Plan

Councils working together

Following several recent queries about how the Department envisages councils working together to deliver on the regional and sub-regional objectives, set out in the Regional Development Strategy (RDS), I want to clarify how I see this working in the new 2-tier system.

The RDS provides strong regional and sub-regional guidance and supports joint working between councils and contains a number of key elements which offer councils direction in this regard. These include:

- The **Spatial Framework** for Northern Ireland which divides the region into 5 components based on functions and geography;
- **Guidance** at two levels, namely, Regional Guidance that is to be applied to all parts of the region and Specific Guidance for each element of the Spatial Framework; and
- The **Hierarchy of Settlements & Related Infrastructure Wheel** which outlines the patterns of service provision and supporting infrastructure that are likely to be appropriate at different spatial levels including neighbourhoods, smaller towns, regional towns and cities and at a regional level.

Engagement between councils provides an opportunity to integrate Local Development Plan (LDP) aims and objectives with those of neighbouring plans and other strategies and promotes a more coherent, joined up approach to regional planning issues. Such cross boundary working also ensures that LDPs are compatible with one another and that areas of potential conflict are resolved prior to a Development Plan Document being submitted to the Department to cause an Independent Examination. Evidence of engagement and collaboration is important to demonstrate how a plan has had regard to other relevant plans and is an important aspect of plan soundness. Councils are encouraged to develop protocols for working together on cross boundary issues relevant to them. Ultimately, plans will be required to demonstrate that they are sound at Independent Examination which will include consideration of how the RDS has been taken into account and how cross boundary issues have been addressed.

Representations

The Department would like to draw your attention to Development Plan Practice Note 9 and the associated Model Form for making representations at Annex A. This Practice Note has been updated to clarify the role of the Examiner in considering representations and is available on the Planning Portal at:

http://www.planningni.gov.uk/index/advice/practice-notes/dppn9_representations_version_2_final-4.pdf

Councils may wish to publish this model form, or a similar form, on their individual websites to assist those wishing to make representations at the key stages of the plan process.

Annual Monitoring

Your attention is also drawn to the requirement for councils to submit an Annual Monitoring report to the Department under Section 21 of the Planning Act (Northern Ireland) 2011 and Regulation 25 of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015. Councils should note that the Department will not require the submission of annual monitoring reports until local development plans are fully adopted.

Planning Case Law

The following judgment in the case of *R (Wright) v Forest of Dean District Council* [2016] may be of interest in relation to the issue of community benefits for a wind farm.

<http://www.landmarkchambers.co.uk/news.aspx?id=4090>

Belfast Metropolitan Area Plan

Infrastructure Minister Chris Hazzard and Economy Minister Simon Hamilton welcomed a decision by the High Court on 18th November 2016 in relation to the Belfast Metropolitan Area Plan (BMAP). The suggested remedy, put forward by the departments jointly, was accepted by Justice Treacy. The proposed remedy focused on the only contested element of the Plan which related to the bulky goods restriction at Sprucefield regional shopping centre. The ruling confirms that the remaining policies within BMAP continue to apply and the Plan remains in force. However, the bulky goods restriction relating to Sprucefield should not be taken into account in informing planning decisions.

Other Government publications/initiatives

Launch of Rathlin Island Action Plan 2016-2020

On 21 September 2016, Infrastructure Minister Chris Hazzard, MLA, launched the Rathlin Island Action Plan 2016 – 2020. The Plan is supported by the Northern Ireland Executive and has a key role to play in securing Rathlin's continued sustainable growth. It is an exemplar of collaborative working between the Northern Ireland Departments, the local council, the local community and other interested stakeholders. The Action Plan is available to view online at:

www.infrastructure-ni.gov.uk/publications/rathlin-island-policy-and-action-plan

Review of Amplitude Modulation (AM) noise from wind turbines

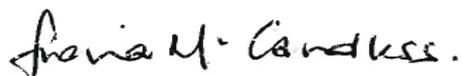
For your information, the Department for Energy and Climate Change, now part of the Department for Business, Energy and Industrial Strategy (BEIS), commissioned consultants, WSP/Parsons Brinckerhoff, to undertake a review and produce a report on Amplitude Modulation (AM) noise from wind turbines. This report was published on 25 October 2016. The aim of the review was to conduct comprehensive research and provide recommendations for how AM noise from wind turbines might be controlled through the use of an appropriate planning condition. In undertaking their review, WSP/Parsons Brinckerhoff worked closely with the Institute of Acoustics AM working group, who in August 2016, recommended a preferred metric and methodology for quantifying and assessing the level of AM in a sample of wind turbine noise data. The reports can be viewed at the following links:

http://ioa.org.uk/sites/default/files/AMWG%20Final%20Report-09-08-2016_1.pdf

<https://www.gov.uk/government/publications/review-of-the-evidence-on-the-response-to-amplitude-modulation-from-wind-turbines>

I hope you find this information useful. It is my intention to make this update, and all future Chief Planner's Updates, available on the Planning Portal.

Yours sincerely



Fiona McCandless
Chief Planner