

Report on	Northern Ireland Assembly Public Accounts Committee Planning in Northern Ireland
Date of Meeting	7 th June 2022
Reporting Officer	Dr Chris Boomer
Contact Officer/s	Dr Chris Boomer

Is this report restricted for confidential business? If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	x

1.0	Purpose of Report
1.1	The purpose of this report is to set out and provide comment on the Public accounts Committee Report on Planning in Northern Ireland and the subsequent draft response of the Department of Infrastructure response.
2.0	Background
2.1	As previously reported the NIAO have carried out a review of the system and how it is performing and this was reported to the Committee on 5 th April 2022. Following on from this the Northern Ireland Assembly Public Accounts Committee has set out its views on the report with recommendations.
2.2	In order to respond the Department has identified a series of actions. To prioritise these a workshop was held on 29 th April. Representatives from the Department and other bodies. Directors and Senior Planning officials were also invited from the different councils. This report will summarise information for members and offer a perspective on the relevant issues as they pertain to Mid Ulster District Council

3.0	Main report
3.1	The main message conveyed by the Public Accounts Committee is that the Planning system is not adequately functioning and needs intervention primarily from the Department of Infrastructure.
3.2	The key Recommendations of the Report are summarised below together with my comments:
3.3	<p>Summary of Recommendations</p> <p>Recommendation 1 - The planning system in Northern Ireland is not working. The Committee recommends that a Commission is established to undertake a fundamental review to ascertain the long-term, strategic changes that are needed to make the system fit for purpose. This should be led by someone independent from the Department.</p>
3.4	It is incorrect to say that the Planning system is not working. Since the transfer to local government as a measure to address a democratic deficit, Mid Ulster Council has issued around 1400 decisions on planning applications per annum. These have been made in a more inclusive and transparent manner and more timely than when the Department was the sole Planning Authority. This said, Mid Ulster recognises that there are failings with the current system and that there is room for improvement. We would welcome an independent body to conduct a review of the system and would urge that this not only led by someone independent from the Department, but that it should be wholly separate from the Department.
3.5	There are many actions that can bring tangible results by amending legislation to redefine what constitutes a valid planning application, limiting and time locking the Department's power of call in and removing the need for local pre determination hearings where objectors already have a right to be heard before the planning committee. However, real change will only occur by ensuring consultees work closer with Planning Departments preferably under the same roof. Accordingly, the reform of government needs to be re-examined and local councils given further powers and resources in relation to local roads powers, regeneration and historic buildings.
3.6	Recommendation 2 - The Committee has heard that there are a number of opportunities to make immediate improvements to the planning system. We recommend that a commission is established to identify tangible improvements that can be achieved in the short term. This must focus on problem solving, delivery and achieving outcomes within a fixed time frame.

3.7	Any ideas generated by the Commission to identify tangible improvements in the short term would be welcomed, however it is important to ensure that these are within resources constraints or extra resources are provided																										
3.8	Recommendation 3 - The Committee expects action to be taken to improve the planning system. In lieu of any accountability for performance within the system, the Department will provide the Committee with a radical action plan and provide the successor Committee with an update on the improvements made in six months time.																										
3.9	The Department has started work on an action plan, which the Service Director has had opportunity to participate in. The below table identifies the key actions and the vote responds to the number of people who at the workshop identified the action as a key priority:-																										
3.10	<p>Short Term (completed in 9 months)</p> <table border="1"> <thead> <tr> <th data-bbox="245 898 325 936">Vote</th> <th data-bbox="325 898 1430 936">Improvement Action</th> </tr> </thead> <tbody> <tr> <td data-bbox="245 936 325 1021">18</td> <td data-bbox="325 936 1430 1021">Bring forward proposals to introduce statutory 'validation check-lists' and seek to advance policy development at the earliest opportunity.</td> </tr> <tr> <td data-bbox="245 1021 325 1171">12</td> <td data-bbox="325 1021 1430 1171">Establish a commission to undertake a fundamental review to ascertain the long-term strategic changes that are needed to make the planning system fit for purpose and to produce a radical action plan to identify tangible improvements to the planning system with an update on progress after six months.</td> </tr> <tr> <td data-bbox="245 1171 325 1317">9</td> <td data-bbox="325 1171 1430 1317">Ensure that the planning system is financially sustainable through urgent legislation on planning fees and an appropriate, long-term funding model incl. an automatic annual inflationary uplift & multiple fees for retrospective applications. 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	1	Urgent clarification from DAERA on the appropriateness of ammonia thresholds in making planning decisions.	
	1	Assess the key skills and experience gaps across the planning system with a plan to ensure that all councils have access to the skills they need to operate effectively if any skills gap is identified.	
		Undertake a general review of current departmental directions.	
		Review DfI's approach to transport assessments (TAs), drawing in appropriate stakeholders and including an analysis of resource requirements.	
		Review processes where delegation rates fall below 90 per cent, to ensure that they represent the best use of council resources.	
		Full transparency around decision-making ensuring processes are open and transparent. Official minutes of the Planning Committee meeting should contain details of the planning considerations that have driven the decision.	
		Regularly review of past decisions to understand the real-world outcomes, impact on communities and the quality of the completed development of both good and bad news stories with lessons learned shared across all councils.	
		Introduction of compulsory training for members of planning committees, to be consistent across all councils & sufficient to allow elected members to fulfil duties.	
		Raise awareness of support available through Community Places planning advice service, planning advice volunteers and information Contained on planning websites.	
		Additional proposals/actions put forward from some groups (in addition to the various reports under consideration)	
		Review of enforcement strategies, policy and resourcing – including prioritisation and environmental obligations	
		Review of Hartlands judgment	
		Planning Authorities review resource requirements	
		Need a single vision / objectives for the NI Planning System	
		Medium Term (completed 9-18months)	
3.11	Vote	Improvement Action	
	13	Review existing PAD process and identify/agree/implement improvements in practice between planning authorities and statutory consultees. Include how to enforce compliance with PAD advice. [view of some councils that the approach to PADs should not be the same between councils – 'one size doesn't fit all']	
	11	Explore further and consider the legislative requirements around statutory consultation including timeframes for consultation responses, penalties for late responses and how to proceed if statutory consultees do not respond within the required timeframes.	
	10	Consider legislative change to prevent the late submission of information with an application (when the council has resolved to take a decision based on the information previously submitted).	
	7	Digital Planning - Assess whether there are ways in which to enhance online/digital means of communication in plan-making, development	
	4	Consideration and a cultural change in the oversight of the planning system is required. Intervention should be to support delivery and to make improvements.	

	2	Establish workshops to rectify the common mistakes arising from information / evidence submitted (agents etc.).	
	1	Provide development plan guidance as required by the review of current processes following adoption of a number of LDPs.	
	1	Bring forward proposals to supplement existing s.59 provisions which would disallow the variation of a development proposal at appeal.	
	1	Explore further the potential use of the transport model for the assessment of major planning applications.	
	1	Review existing thresholds and categories of development to determine the need for revisions.	
		Bring forward proposals to make Pre-Determination Hearings discretionary for councils in the exercise of their functions.	
		Review current requirements around Tree Preservation Orders with a view to bringing forward proposals to permit the varying or revoking of TPOs. Consider whether there is a need for guidance to clarify certain TPO terms or definitions.	
		Bring forward proposals to provide for both in-person and on-line/electronic Pre-Application Community Consultation public engagement. Clarity on the PAN process could be provided in expanded guidance if appropriate.	
		Investigate differences in enforcement case outcomes to ensure cases are being processed consistently across Northern Ireland.	
		Additional proposals/actions put forward from some groups (in addition to the various reports under consideration)	
		Environmental governance review re water requirements (sewage capacity/HRA etc)	
		Review of RDS & SPPS	
	3.12	Long Term (18 months plus)	
Vote		Improvement Action	
		Assist with improving accessibility to the Local Development Plan process and other place shaping processes through Better Integration of Community Engagement Act, planning Communications and learning about Planning.	
		Explore the possibility of applying Fixed Penalty Notices to advertisement control.	
		Rural housing policy to be agreed and implemented equally and consistently across Northern Ireland.	
		Consider making the NIW pre-development enquiry (PDE) process mandatory through future Water legislation.	
		Take forward a commission to measure the public value of the planning system.	
		Review proposals for outcomes within the draft PfG in relation to planning.	
		Provide community with early information on planning proposals through Neighbour Notification, Site Notices, Low-Cost Digital Applications and Advertising Requirements order to improve accessibility to community engagement and give opportunity to be involved in the planning process.	

	<p>Improve the quality of community engagement at the pre-application stage for major and regionally significant developments through:-</p> <ul style="list-style-type: none"> • Provide a list of key community stakeholders & interest groups to be targeted as part of PACC. • PACC Report containing feedback/checklist on how issues raised by the community have either influenced proposed development or why they have not. • Proportionate Early Community Engagement for non-Major applications. • Revise PACC arrangements for social housing proposals by Housing Associations, and required by Department for Communities, to avoid duplication. <p>Update Guidance on pre-app Community Engagement on Planning Applications</p>	
	Raise the profile of community engagement by developing a community engagement awareness campaign and Good Practice Standards.	
	Develop capacity and skills by creating community engagement online resource, learning and investing in digital innovation, engagement with children and young people and on climate change.	
	Understand how third parties engage in the planning process and consider the appropriateness of limited third-party rights of appeal.	
	Additional proposals/actions put forward from some groups (in addition to the various reports under consideration)	
	Review 2 tier structure / system	
3.13	<p>Although the tables action points and time frames is open to criticism, it gives a starting point. It should be noted that whilst some of the action points firmly rest with the Department, particularly where they need legislative change, there are also a number of actions which rest with local government. As a consequence it would be of assistance to agree that we will provide a commitment to work with our sister councils. Past experience of delivering change has shown that this is best done through work streams and where called upon to participate in or lead appropriate working groups it is important that we demonstrate our willingness.</p>	
3.14	<p>Recommendation 4 - The Committee recommends that the Department considers ways to streamline the remaining LDP processes, and works with councils to learn lessons from those that have been through the independent examination process with a view to taking a more pragmatic approach to the remaining plans. The Department and councils need to work collaboratively to produce these important plans as soon as possible.</p>	
3.15	<p>Our experience to date is that the Department is the main cause of delay, given the Mid Ulster Local Plan Strategy has rested with the Department for over a year, and we have been provided with no explanation for this. There is a need to lesson the role of the Department oversight team and instead focus on the roll of the PAC who have always demonstrated a pragmatic approach to plan making. Where the Department does not agree they should present this as objection for the Commission to consider and the Commission's decision should be final as in Great Britain.</p>	

3.16	<p>There is also a need to look at the back ground research needed to prepare a development plan which is unduly cumbersome and needs cut down</p>
3.17	<p>Recommendation 5 -The Committee recommends that all those involved in decision-making ensure that processes are open and transparent, particularly where a high degree of interpretation has been exercised. The Department and councils should consider how checks on good record keeping, to ensure transparency, could be carried out effectively.</p>
3.17	<p>The Practice in Mid Ulster council is to ensure decisions are transparent and properly reported on, that Committee minutes are kept and reasons for decisions provided through the reasoning of the officers original report, or considered in a deferred consideration report or clearly stated at the planning committee. We on occasion use our internal auditors to check this and to date no failings have been identified.</p> <p>Recommendation 6 -The Committee recommends that the Department should ensure that there is suitable and proportionate means of engaging with the planning system. This should include a deeper consideration of the appropriateness of limited third-party rights of appeal.</p> <p>The augment against third party appeals has always been that it would lead to further delay and cost for developers. However, in the Republic of Ireland these are part of the planning system. For the planning authority, these could have benefits in that it would provide a more cost effective avenue for permissions to be challenged than through the courts. This said, there would need to be very clear safe guards to ensure they are limited and safeguards are in place to prevent abuse.</p> <p>Recommendation 7 - The operation of the planning system for rural housing is at best inconsistent and at worst fundamentally broken. The Committee believes that it is essential that policy in the area is agreed and implemented equally and consistently across Northern Ireland. The Department should ensure this is the case.</p> <p>This is view is ill informed and not based on sound evidence. In Mid Ulster decisions on rural houses are well documented and in accordance with policy as agreed by Stormont and if an exception to policy is made it is documented. Furthermore, the notion that the policy should be the same across Northern Ireland is ill informed given that different areas face different sensitivities, different pressures and have very different demographics. The best way for policy to be brought forward is through the local development plan and it is important that council retain the right to tailor policy to the needs of the local area whilst taking into account the regional planning policy statement.</p>

Recommendation 8 The Committee recommends that the Department urgently considers how it exercises its oversight of the planning system. In the Committee's view, this must be accompanied with a cultural change. Intervention should be to support delivery and to make improvements. The current minimal approach is no longer sustainable.

Experience to date is that Departmental intervention has only led to delays and little has occurred to support delivery. There needs to be a cultural change in the Department towards empowering local government to make informed and considered decisions. This is in stark contrast to what to date has been undue delay in considering Local Development Plan submissions and the serving of directions preventing local authorities from making decisions without calling in application. It may be beneficial to time lock such directions.

Recommendation 9 -The Committee recommends that the Department and local government should implement immediate changes to improve the quality of applications entering the system. Whilst this may require legislative change, we do not believe that this should be an excuse for delay.

Recommendation 10 The Committee recommends that planning authorities regularly review past decisions to understand their real-world outcomes, impact on communities and the quality of the completed development.

There would be no objection to undertaking such reviews and Council would ask Central government would make additional funding available to help facilitate this.

Recommendation 11 - The planning system must be financially sustainable and this requires an appropriate, long-term funding model. The Committee recommends that all those involved in delivering planning work together to achieve this. In the short term the Department should take the lead on bringing forward legislation on planning fees as a matter of urgency.

This is a matter that we would give full support. The failure to increase fees in a meaningful way over the past 7 years has caused a strain on most planning Departments. With the advent of high inflation, this is getting worse.

Recommendation 12 - There is a fundamental need for a cultural change in the way local and central government interact around planning. Whilst cultural change will take time, this should be reflected immediately in a more inclusive planning forum which includes representation from developers and communities.

Our experience through Plan Making and particularly through area based meetings with the public, the use of a panels to test sustainability and liaison meetings with local agents has proven very useful. Ideas to develop further forums at regional and local level is welcomed.

4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: Additional resources are needed to improve the planning system and fees should be reviewed immediately
	Human: None identified
	Risk Management: None identified
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: None identified
	Rural Needs Implications: None identified
5.0	Recommendation(s)
5.1	<p>That the Service Director on behalf of the Committee writes to the Public Accounts Committee, providing a copy of the report and providing a willingness to work with the Department and other Councils for a reform of the Planning System. This said, the solution is not to increase the role of the Department but to further empower Local Government. Key actions which are needed are as follows:-</p> <ul style="list-style-type: none"> (a) There should be further Review of Public Administration to ensure that further functions relating to Local Road, Regeneration and Historic Buildings should transfer to Local government. Without this, any improvements will only be temporal as central government bodies will undoubtedly revert to the silo mentality over time. (b) The role and responsibilities of the Department in relation to the oversight of Local Development Plans is subject to independent review. It is clear there is a lack of clarity on the role of the Department in relation to assessing soundness in the context of regional policy and the weight given to local democracy in devising policies having regard to the Strategic Planning Policy. There is also a need to speed up decision making and final decision on soundness of a plan should transfer to the Planning Appeals Commission. The Department should be required to carry out any oversight of plans within clearly defined time limits. (c) That planning fees should be review to ensure sustainability of planning services, and they be future proofed by indexed linking to inflation to prevent the same delay in increasing fees in future years.
6.0	Documents Attached & References:
6.1	The Northern Ireland Assembly Public Accounts Committee report on Planning in Northern Ireland is available on the Assembly's Public Accounts Committee web site.

