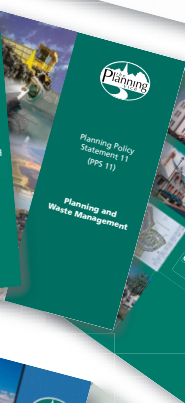
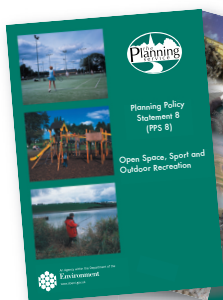




The Hierarchy of Planning Documents and their Role in Making a Planning Decision



Department of the
Environment
www.doeni.gov.uk



INVESTOR IN PEOPLE

The Hierarchy of Planning Documents and their Role In Making a Planning Decision

Introduction

The Department of the Environment is responsible for planning control in Northern Ireland.

The Planning Service, an Agency within the Department, administers its planning functions.

The planning system guides the future development and use of land in our cities, towns and rural areas in the public interest. The central concerns of the system are to determine what kind of development is appropriate, how much is desirable, where it should be located and what it looks like.

This leaflet is one of a series of information leaflets that look at different aspects of the planning system. Its purpose is to provide information on the various planning documents that are used in the decision-making process and to explain how the Department takes these and other matters into account in making its decisions on planning applications. It attempts to simplify a complex area and to do so as straightforwardly as possible. However, it is intended simply as a guide and its contents should not be relied upon as an authoritative interpretation of the law.

The information provided reflects the Department's understanding of the legal and policy position at time of printing. The leaflet may therefore need updating in the future to reflect legislative change or new or revised statements of policy.

Finally, it should be noted that the responsibility for making a decision on a planning application does not always rest with the Department. Where an appeal is lodged, the final decision will be made by the Planning Appeals Commission, an independent body established by statute. The decisions of both the Department and the Commission are open to challenge on a point of law by application to the High Court for judicial review.

What are the main documents used by the Department in considering a planning application?

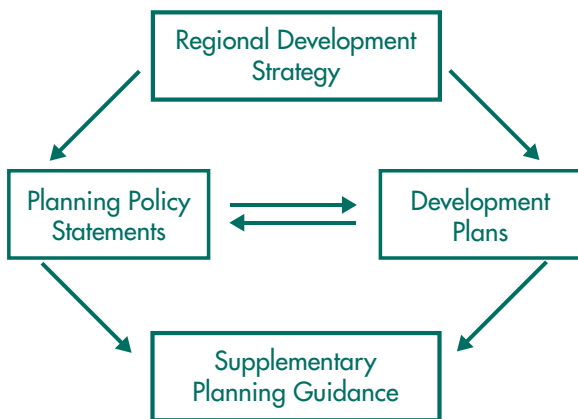


Figure 1. The Hierarchy of Planning Documents

The Regional Development Strategy

The Regional Development Strategy (RDS), 'Shaping Our Future', is a strategy for the development of Northern Ireland up to 2025. It contains a Spatial Development Strategy and related Strategic Planning Guidelines which provide the planning context for:

- strengthening the competitiveness of the regional economy and tackling social and economic disadvantage;
- protecting and enhancing the physical, natural and man-made assets of the Region;
- housing, transport, air and water quality, energy and waste strategies, and for infrastructure providers and public service providers; and
- development plans and for guiding public and private investment decisions relating to land use.

As a strategic planning document the RDS has set the long-term direction for development plans and the Department must also take its contents into account in making decisions on individual planning applications. As regards its relationship to existing development plans the RDS itself advises that:

“The strategies and policies in the RDS are, of course, material considerations which **may** take precedence over the provisions of existing development plans. The weight to be afforded to the RDS, the development plan, and to any other material considerations will be a matter for judgement and may vary from case to case.”

Confirming the importance of the RDS all planning policy and plans made by the Department must now be “in general conformity” with the Strategy.

Planning Policy Statements

Planning Policy Statements (PPS) contain policies on land-use and other planning matters, for example telecommunications or the built heritage, and apply to the whole of Northern Ireland. They set out the main planning considerations that the Department takes into account in assessing proposals for the various forms of development and are also often relevant to the preparation of development plans.

The guiding principle that the Department observes in making decisions on planning applications is set out in PPS 1 ‘General Principles’. This states that development should be permitted, having regard to the development plan and all other material considerations, unless it would cause demonstrable harm to interests of acknowledged importance.

PPSs are gradually replacing the policy provisions of the Planning Strategy for Rural Northern Ireland published in September 1993 and each PPS indicates those policies of the Strategy that it is superseding. In the meantime, the Planning Strategy remains in force for those topics not covered by a PPS. For example, it provides

the Department's current policies for tourism development in the rural area. In addition a PPS will indicate if it is taking precedence over the provisions of development plans.

The Department, in conjunction with the Department for Regional Development, is currently working towards the production of a full suite of PPSs by the end of 2005.

Development Plans

Development plans may be in the form of area plans, local plans or subject plans. They apply the regional policies of the Department at the appropriate local level. Development plans inform the general public, statutory authorities, developers and other interested bodies of the policy framework and land use proposals that will be used to guide development decisions within their local area.

Each development plan provides:

- a framework for investment by public, private and community sectors;
- confidence and a measure of certainty for those wishing to develop and those affected by development proposals;
- a framework for positive co-ordination of public policies in 'joined-up' Government;
- general and specific land allocations for the full range of land uses needed to support the life of the local community and social and economic progress;
- a process for involvement and 'ownership' by local communities wishing to influence the future development of their areas in a positive manner; and

- a process to translate to local level the guiding principles and objectives of the Regional Development Strategy and Planning Policy Statements.

The development plan is therefore the primary means of evaluating and reconciling any potential conflict between the need for development and the need to protect the environment within a particular area.

In making its decisions on planning applications the Department must take into account the relevant provisions of the development plan for the area.

Supplementary Planning Guidance

The Department also prepares planning guidance to supplement, clarify or illustrate by example its policy statements and plans. This can take the form of design guides such as the 'Creating Places' guide for residential development or guides prepared for Conservation Areas. It also includes a set of Development Control Advice Notes that explain the criteria and technical standards that the Department considers when dealing with specific categories or particular aspects of development.

Where relevant to a particular development proposal supplementary guidance will be taken into account as a material consideration in making decisions. The weight accorded to it will increase where it has been prepared following public consultation.

Are there other documents that the Department takes into account in assessing proposals?

There are a large number of other Government strategies and policy documents that can on occasion be material to the consideration of particular development proposals. Examples of such documents include: the Northern Ireland Biodiversity Strategy; the Regional Transportation Strategy for Northern Ireland 2002-12 and

supporting Transport Plans; the Northern Ireland Waste Management Strategy; the Northern Ireland Landscape Character Assessment and the River Conservation Strategy for Northern Ireland.

What other matters does the Department take into account when making its decisions on planning applications?

The range of considerations that might be regarded as material to decision-making in planning terms is, in practice, very wide. They vary from application to application and have to be determined in each individual case. There are two main tests in deciding whether a consideration is material and relevant:

1. it should serve or be related to the purpose of planning - it should therefore relate to the development and use of land; and
2. it should fairly and reasonably relate to the particular application.

While initially it is for the Department to consider whether a consideration is material, it is ultimately a matter for the courts to decide. As regards the weight to be given to the various considerations, the courts have held that this is a matter for planning judgement (see page 8).

The policies and guidance contained in the hierarchy of planning documents are clearly matters that need to be considered in making planning decisions, as do other published Government Strategies and policy documents whenever relevant to the particular application in question. Examples of other possible material considerations include:

- European policy and UK Government policy, where relevant;
- the environmental impact of the proposal;

- the design of the proposed development and its relationship to its surroundings;
- access and provision of infrastructure;
- the planning history of the site;
- views of consultees, including the local district council; and
- public concern or support expressed on relevant planning matters.

What about the impact of planning decisions on Human Rights?

The Human Rights Act 1998 incorporated provisions of the European Convention on Human Rights (ECHR) into UK law. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every person together with the limitations placed on these rights in order to protect the rights of others and of the wider community.

The specific Articles of the ECHR relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

The Department is satisfied that its processes and practices are compatible with the ECHR. The planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process for the Department to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development

should be allowed to proceed. In carrying out this balancing exercise the Department will of course wish to be satisfied that it has acted proportionately.

Who decides the weight that is given to the various material considerations?

Where it is decided that a consideration is material to the determination of a planning application the courts have held that the assessment of weight is a matter for planning judgement by the planning authority, rather than the court. Accordingly it is for the Department to assess the weight to be attached to each material consideration.

The policies and guidance contained in the hierarchy of planning documents are the starting point for the Department in its assessment of development proposals and most decisions are usually taken in line with them.

However, the Department is legally obliged to consider **all** relevant matters in determining a planning application and this means that some decisions will not follow published policy or guidance. In other words, the Department may occasionally depart from published policy when it considers this is outweighed by other factors and can be justified in the circumstances of the particular case. Similarly, in making a decision where there are competing priorities and policies the Department must exercise its judgement in determining the balance of considerations.

Planning Office	Address	Phone/fax/e-mail
Ballymena Division	County Hall 182 Galgorm Road BALLYMENA Co Antrim BT42 1QF	Phone: (028) 2565 3333 Fax: (028) 2566 2127 E-mail: divisional.planning.office.ballymena.@nics.gov.uk
Belfast Division	Bedford House 16-22 Bedford Street BELFAST BT2 7FD	Phone: (028) 9025 2800 Fax: (028) 9025 2828 E-mail: divisional.planning.office.belfast.@nics.gov.uk
Craigavon Division	Marlborough House Central Way CRAIGAVON Co Armagh BT64 1AD	Phone: (028) 3834 1144 Fax: (028) 3834 1065 E-mail: divisional.planning.office.craigavon.@nics.gov.uk
Downpatrick Division	Rathkeltair House Market Street DOWNPATRICK Co Down BT30 6EA	Phone: (028) 4461 2211 Fax: (028) 4461 8196 E-mail: divisional.planning.office.downpatrick.@nics.gov.uk
Londonderry Division	Orchard House 40 Foyle Street LONDONDERRY Co Londonderry BT48 6AT	Phone: (028) 7131 9900 Fax: (028) 7131 9777 E-mail: divisional.planning.office.londonderry.@nics.gov.uk
Omagh Division	County Hall Drumragh Avenue OMAGH Co Tyrone BT79 7AE	Phone: (028) 8225 4000 Fax: (028) 8225 4010 E-mail: divisional.planning.office.omagh.@nics.gov.uk
Coleraine Sub-Division	County Hall Castlerock Road COLERAINE Co Londonderry BT51 3HS	Phone: (028) 7034 1300 Fax: (028) 7034 1434 E-mail: divisional.planning.office.coleraine.@nics.gov.uk
Enniskillen Sub-Division	15 East Bridge Street ENNISKILLEN Co Fermanagh BT74 7BW	Phone: (028) 6634 6555 Fax: (028) 6634 6550 E-mail: divisional.planning.office.enniskillen.@nics.gov.uk
Planning Service Headquarters	Clarence Court 10-18 Adelaide Street BELFAST BT2 8GB	Phone: (028) 9054 0540 Fax: (028) 9054 0665 E-mail: planning.service.hq.@nics.gov.uk