Planning Reform & Transfer to Local Government: Proposals for Subordinate Legislation

The Planning Act (NI) 2011

Phase 2 Public Consultation

October 2014
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Responding to this consultation document

How to Respond
You are invited to send your views on this consultation document. Comments should reflect the structure of the document as far as possible with references to question numbers and paragraph numbers where relevant.

All responses should be made in writing and submitted to the Department no later than 31st December 2014 in one of the following ways:

1. **By post** to:
   Planning Reform & Transfer to Local Government Consultation – Phase 2
   Planning Policy Division
   Department of the Environment
   Level 6 Causeway Exchange
   1-7 Bedford Street
   Town Parks
   Belfast
   BT2 7EG

2. **By e-mail** to: ppdconsultations@doeni.gov.uk

In keeping with our policy on openness, the Department will make responses to this consultation document publicly available. When publishing responses received on behalf of organisations, the Department will also publish the organisation’s name and address. When publishing responses received on behalf of individuals, the Department will not publish details of the individual’s name and address.

We look forward to receiving responses to the proposals and issues raised within this consultation document. Additional copies of the consultation document can be downloaded from the Department’s website at [www.planningni.gov.uk](http://www.planningni.gov.uk) or requested via the postal address, e-mail as above, by telephone on (028) 90823498 or by Text phone (028) 90540642.
This document is available in alternative formats, please contact us to
discuss your requirements.

If you have any comments or complaints about the consultation process itself
(rather than the content of this document), these should be directed to the
postal or e-mail addresses above.
1 - Introduction

Purpose of the consultation

1.1 This consultation document is the second phase of a two-phased public consultation exercise being undertaken by the Department of the Environment on proposals for subordinate legislation for the reform of the planning system and the transfer of the majority of planning functions to the newly elected 11 district councils. This transfer is due to take place on 1st April 2015 from which point the local councils will operate as the local planning authority for their respective areas.

1.2 The reform and transfer of planning involves enacting more than 20 pieces of subordinate legislation, known as statutory rules (SRs), in exercise of powers already established in the Planning Act (Northern Ireland) 2011 (the 2011 Act) within a relatively short time period. In order to manage this workload and to provide a co-ordinated picture of how the changes proposed in legislation link together, the Department is consulting in two phases.

1.3 The phase 1 consultation exercise (which ran from 28th May until 20th August 2014) focussed on those issues necessary to ensure that the new district councils inherit a fit for purpose, functioning planning system immediately following the transfer of planning functions from central to local government. These “day one essentials” should ensure that there are no interruptions to the management of applications, enforcement cases etc. already in the system and that work initiated by the Department can be continued by the relevant new councils through to conclusion.

1.4 The Department is currently considering the responses received in relation to the phase 1 proposal’s for subordinate legislation in order to inform the process of engagement with the Assembly’s Environment
Committee as part of the legislative process.

1.5 The proposals in this phase 2 consultation deal with a range of matters which, while important in delivering the broader range of planning reforms, are not essential to the continued operation of the system when powers transfer on 1st April 2015. While the day one essentials have been prioritised in phase 1 the Department will nevertheless aim to have these reforms introduced for April 2015.

1.6 The proposals across the two phases set out how the Department proposes to introduce improvements in the planning process and establish a new two-tier planning system in Northern Ireland. The reforms to the planning system are intended to deliver:

- improved access to and increased participation in the planning process;
- faster and more predictable outcomes;
- fairer and faster appeals; and
- stronger and more effective enforcement.

1.7 The key phase 1 proposals focussed on to the following elements of the planning process:

- local development plans;
- statements of community involvement;
- the new three-tier hierarchy of development applications i.e. local, major and regionally significant;
- the new and revised procedures for managing applications through the system;
- listed buildings; and
- the management of applications relating to land of interested parties e.g. council-owned land.
1.8 The proposals in this phase 2 consultation relate to the following areas:

- simplified planning zones;
- levels of fixed penalties; and
- modification and discharge of planning agreements.

1.9 In addition to proposals relating to changes to improve the planning system resulting from, or dependent upon, the new powers in the 2011 Act, and which are subject to public consultation, there is also a limited number of amendments required to take account of the new two-tier planning system. Whereas under the current system the Department acts as the single unitary planning authority, under the two-tier system there is a need to provide for changes in processes to support the roles of both councils and the Department as planning authorities.

1.10 Changes to subordinate legislation which do not involve the introduction of a new policy or a change in existing policy may be regarded as technical and do not require public consultation. In addition to the technical SRs identified as day one essentials in phase 1 the Department considers that the following pieces of subordinate legislation fall into this technical category:

- The Certificates of Alternative Development Value Regulations (NI) 2015;
- The Planning (Conservation Areas) (Consultation) Regulations (NI) 2015;
- The Planning (Inquiry Procedure) Rules (Northern Ireland) 2015; and
- The Planning (Commencement) Order(s) (NI) 2015.

As such the Department is not consulting on this legislation although it will still be subject to the normal legislative process and the full scrutiny of the Assembly. Chapter 6 sets out further information on each piece of legislation in order to provide a comprehensive overview of the legislative provisions the Department aims to introduce in April 2015.
1.11 As was the case with phase 1, all legislation referred to in this consultation document will be made available on the Department’s website. This will include new legislative provisions which are the subject of this consultation as well as the technical SRs referred to above.

1.12 The details of the proposed subordinate legislation are set out in the following chapters and include relevant questions per section. The questions are repeated at Chapter 9 for ease of reference.

1.13 While responses cannot be accepted by telephone, as this consultation deals with a range of reforms, the following persons will be able to answer queries:

<table>
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2 - Local Government & Planning Reform - A New Two-tier Planning System

2.1 A major reform programme for the planning system in Northern Ireland was originally announced in November 2007. This incorporated a range of medium to long-term measures designed to address all the key management elements of the planning system. The Department published a consultation paper *Reform of the Planning System in Northern Ireland: Your chance to influence change* in July 2009 and undertook a comprehensive programme of engagement including hosting a range of stakeholder events. The Northern Ireland Executive agreed to the final policy proposals for reform of the planning system in February 2010, including measures necessary to transfer responsibility for the majority of planning functions to the new councils. These were set out in the Department’s response published in March 2010 and provided the basis for the Planning Bill introduced into the Assembly in December 2010.

2.2 This Bill progressed through the Assembly to become the 2011 Act which received Royal Assent in May 2011 and established the broad range of enabling powers for the reform of the planning system and the transfer of responsibility for the majority of planning functions from central government to the new councils scheduled for 1st April 2015.

2.3 A range of subordinate legislation is required to bring the 2011 Act fully into operation and establish the new two-tier planning system from the date of transfer. Under this new model the Department will determine only a very limited number of regionally significant applications and have a general oversight role. Councils, through their elected representatives, will be responsible and accountable for the vast majority of planning decisions and the formulation of a new local development plan for their council area.
2.4 In April 2013 the Executive agreed the full package of functions that will transfer from central to local government. In addition to planning, off-street parking, urban regeneration and community development, local economic development and local tourism will transfer. Councils are also being given the new power of community planning. The Local Government Act (Northern Ireland) 2014, which gives effect to the Executive’s decisions on the future shape of local government, received Royal Assent on 12th May 2014.

2.5 From 1st April 2015, councils will be the planning authorities responsible for:

- local development planning – creating a clear vision of how the council area should look in the future by establishing what type and scale of development should be encouraged in the council area and where it should be located;
- development management – determining the vast majority of planning applications; and
- planning enforcement – investigating alleged breaches of planning control and determining what action should be taken.

2.6 The Department will retain responsibility for:

- regional planning policy;
- determination of regionally significant/called-in applications;
- planning legislation;
- oversight and guidance for councils; and
- performance management.
3 – Simplified Planning Zones

3.1 Currently Articles 14 to 18 of the Planning (Northern Ireland) Order 1991 (the 1991 Order) set out the powers enabling the Department to make, adopt and alter a simplified planning zone (SPZ) scheme. An SPZ has the effect of granting planning permission within an identified geographic area for particular development, or any class of development, specified in the scheme. Relevant development can then proceed without the need to apply for planning permission providing it meets the requirements set out in the SPZ scheme. These may include requirements relating to scale, appearance and materials used. If development is within an SPZ area but does not meet all the requirements of the scheme it can be subject to enforcement.

3.2 The provisions of the 1991 Order also set out the exclusion of certain descriptions of land from SPZs, including land in a conservation area, an area of outstanding natural beauty or special scientific interest etc. In addition, the powers rely on the development plan provisions in Articles 5, 6, 7 and 8 of the 1991 Order.

3.3 The existing subordinate legislation that deals with SPZs i.e. the Planning (Simplified Planning Zones) Regulations (Northern Ireland) 1990 (the 1990 regulations), sets out the detailed provisions for a range of procedural issues including:-
- the process for publicising SPZs;
- periods for making representations;
- the consideration of objections; and
- public inquiry.

3.4 While made under the Planning (Northern Ireland) Order 1972 the 1990 regulations are treated as if they were made under the 1991 Order by virtue of section 29(3)(a) of the Interpretation Act (Northern Ireland)
1954 and are extant, that is they currently remain operative.

3.5 The 2009 proposals on planning reform identified SPZs as a future tool for councils in support of their local economic development responsibilities. The 2011 Act therefore provides powers at sections 33 to 38 and Schedule 1 for the new councils to take forward SPZs rather than the Department, although the Department still has a role in the process including providing advice and guidance. Given the move to the new two-tier planning system new subordinate legislation will be required to provide detail on the process for councils making and adopting SPZs.

3.6 The potential benefits of SPZs can include:-
- greater certainty of outcome for a developer whose development meets the criteria set out in the SPZ scheme;
- the removal of the financial and administrative burden of submitting an application; and
- lightening the burden on the development management system by reducing the number of applications coming into the system.

3.7 Under the requirements of the 2011 Act an SPZ scheme must include:
- a map and a written statement; and
- such diagrams, illustrations and descriptions that the relevant council thinks are necessary to explain or illustrate the provisions of the scheme.

3.8 The Department has never exercised its SPZ powers and so the process has been un-tested. However, the Department believes that the approach to the development of an SPZ as set out in the 1990 regulations remains reasonable. As previously mentioned the existing SPZ process relies to a degree on the development plan provisions of the 1991 Order. A key element of the proposals detailed in the phase 1 public consultation document was the significant revision of the
development plan process going forward, including a new two-stage process of an initial plan strategy and a subsequent local policies plan together comprising the development plan for the area.

3.9 The proposed Planning (Simplified Planning Zones) Regulations (Northern Ireland) 2015 (the 2015 regulations) will include provisions for a council making and altering an SPZ scheme as follows.

3.10 Consultation and notification before finalising initial proposals – where a proposed SPZ scheme would permit any development where a planning application would be required that may ordinarily require statutory consultation under Schedule 3 of the Planning (General Development Procedure) Order (NI) 2015 (see phase 1 consultation document) the council must consult the relevant statutory consultee.

3.11 Procedure for publicising finalised proposals – when a council has then finalised its proposals it must:-
- advertise the proposals for two weeks in at least one newspaper circulating in the council area inviting written objections or representations (including any additions to the proposed scheme) within 8 weeks of the first notice;
- publish notice on its website for a period of at least 8 weeks after the first newspaper advertisement;
- make copies available in the council’s offices and in any other places it considers appropriate; and
- advise any statutory consultees with whom it had previously engaged.

3.12 Managing objections and representations – in the newspaper and website notifications a council must advise that objections or representations can be made within 8 weeks of the newspaper advertisement and how these can be made. The council can then either consider any submissions made or cause a public independent examination to be held to consider them. Any independent
examination must be advertised in the local press in the same manner as required for proposals and the details of the independent examination provided to every person who has made a valid objection or representation. On the basis of the nature of objections made the council may modify its initial proposals.

3.13 Adoption of proposals - whether objections are considered by the council or are the subject of independent examination the council must prepare a statement on the decisions it has reached in relation to each objection and the reasons for those decisions. The council must then publicise its intention to adopt proposals, with or without modifications, by local newspaper advertisement and make its statement on decisions, and any examination report, available for inspection, along with any modifications to the proposed scheme.

3.14 If a council decides not to proceed with a scheme or alterations it shall newspaper advertise in the same manner and advise those who have made valid objections or representations and not withdrawn them.

3.15 Role of the Department – SPZ powers are viewed as a supporting tool for councils’ local economic development role and the powers to designate an SPZ do not extend to the Department. However, given that an SPZ has the effect of granting planning permission, the 2011 Act provides for the Department to have an oversight role, and if necessary an intervention role, which is intended to ensure that the provisions of an SPZ scheme are consistent with policy and would not subvert other planning control. To that end the proposed regulations require a council to provide the Department with copies of all newspaper notices and documents made available for inspection and provide details on the mechanisms by which the Department may issue directions to a council where it feels this may be necessary.

3.16 Under the proposed requirements of the new Planning (General Development Procedure) Order (Northern Ireland) 2015 (see phase 1
any SPZ scheme must be kept as part of a council’s planning register so that it is readily accessible by the general public.

**Question 1:** Do you agree with the proposed approach in subordinate legislation for councils making and adopting SPZs?
4 – Amount of Fixed Penalties

4.1 As part of the development of policy proposals for planning reform in 2009 the Department considered the introduction of fixed financial penalties for certain breaches of planning control as an alternative to prosecution through the courts. The intention was for fixed penalty notices (FPNs) to be made available to councils as an additional, discretionary enforcement power.

4.2 This was informed by the position in Scotland where the Scottish Government considered FPN powers would speed up the system and provide an alternative to the costly and potentially lengthy process of seeking a prosecution through the courts. The Planning etc. (Scotland) Act 2006 introduced the necessary amendments to the Town and Country Planning (Scotland) Act 1997 empowering councils as local planning authorities to issue FPNs as an alternative to prosecution for breach of an enforcement notice (EN) or breach of condition notice (BCN).

4.3 Question 72 of the planning reform consultation paper, “Reform of the Planning System in Northern Ireland: Your chance to influence change” (issued in July 2009), asked respondents if they thought that the Department should consider developing firm proposals for introducing FPN powers similar to those in Scotland.

4.4 The “Government Response to Public Consultation July – October 2009” (published in March 2010) set out that there were 157 respondents commenting on the issue of FPNs, with 64 per cent in support. Of the 36 per cent who opposed the proposal, some suggested that the Scottish experience should be assessed before it should be considered for Northern Ireland. There were some concerns that the system could be abused, with developers opting to pay fairly small fines, rather than face proportionate and effective penalties through the courts. At stakeholder events some participants were in
favour of the proposals, while others believed they could be seen or misconstrued as ‘pay offs’ for breaching planning control.

4.5 The then Minister accepted that FPN’s had the potential to effectively supplement existing enforcement powers and legislative provisions largely mirroring the FPN system in Scotland were introduced at sections 153 to 155 (Part 5 Enforcement) of the 2011 Act.

4.6 In line with the increased focus on strengthening enforcement powers to enable swifter and more effective enforcement action the Department has provided councils with the discretionary option of issuing a FPN for two offences. These are where a person has committed an offence under sections 147 or 152 of the 2011 Act by being in breach of an EN or a BCN.

4.7 While the enabling powers are contained in sections 153 and 154 of the 2011 Act the level of fixed penalty for the two offences mentioned above are to be prescribed in subordinate legislation.

4.8 It is the Department’s intention that FPNs will complement existing enforcement tools which will be available to council enforcement staff from the point of transfer including ENs, BCNs, stop notices and the ability to take direct action to remedy a breach of planning control. Such powers are considered sufficient to allow the councils to exercise their enforcement functions, however, FPNs will provide an additional and discretionary power. Where the council considers that a breach of planning control is significant or an offence has been committed to deliberately flout planning legislation then the option of a prosecution through the courts will, of course, remain the normal course of action.

4.9 In circumstances where a FPN has been served by a council and payment has been made, but the breach of planning control which gave rise to the EN has not been resolved, the council may not prosecute in respect of that particular breach of an EN. The council
may, however, itself carry out the works necessary to comply with the requirements of an EN and, under section 146 of the 2011 Act, the cost of the work can be reclaimed from the owner of the land.

4.10 It is anticipated that FPNs will be offered for what might be described as less significant offences as an alternative to potentially lengthy and costly court prosecutions. While all enforcement action will be the responsibility of the new councils it is anticipated that for more significant offences, FPNs will not represent a sufficient penalty commensurate with the scale and nature of the breach and that prosecution through the courts will be a more appropriate course of action.

4.11 Contrary to some of the issues raised during the early discussions on policy proposals there is no basis for viewing FPNs as a means of offenders buying their way out of compliance with the requirements of the planning system. They provide an additional, discretionary enforcement tool for councils in the exercise of their enforcement responsibilities. They do not prevent or restrict a council’s decision-making process in terms of taking a court prosecution where this is considered the appropriate course of action.

4.12 Following transfer of planning functions councils may wish to develop their own Enforcement Strategy in respect of planning enforcement, to manage this in a way that is appropriate to their area. The Department will provide guidance to councils on enforcement. Councils can then consider the use of FPNs, alongside other enforcement powers, and how best to apply these in the context of their own Enforcement Strategy. Examples based on the Scottish experience are detailed below and indicate the types of breaches of planning control where FPNs were deemed an appropriate course of action:

- unauthorised change of use;
- unauthorised alterations to the elevations of a property; and
• unauthorised development within the curtilage of a residential property.

4.13 Reflecting the Scottish model the Department proposes fixed penalties of £2,000 for being in breach of an EN and £300 for being in breach of a BCN. In line with the Scottish, and indeed other FPN systems, provision is made for a reduction in these levels for prompt payment. Sections 153 and 154 of the 2011 Act provide for a 25% reduction of the amount payable where a fixed penalty is paid within 14 days.

4.14 The incentive in paying a fixed penalty is also in part linked to the level of financial penalty an offender might reasonably expect to be imposed through the courts (including court costs and legal costs). FPNs provide an opportunity for a more cost effective, less time consuming and more flexible means of enforcing planning control.

Question 2: Do you agree with the proposed level of fixed penalty in relation to a breach of an enforcement notice? If not, what do you think the level should be and why?

Question 3: Do you agree with the proposed level of fixed penalty in relation to a breach of a condition notice? If not, what do you think the level should be and why?
5 – Modification and Discharge of Planning Agreements

5.1 A planning agreement is a voluntary, legally-binding agreement which can be utilised to overcome identified barriers to the granting of planning permission, normally for large-scale major planning applications, which cannot be suitably addressed by way of conditions attached to the permission. Such an agreement is negotiated at the pre-application stage and the planning agreement will take the form, when signed, of a legally binding contract. The planning agreement is a material consideration in the determination of an application for planning permission.

5.2 Currently Article 40(1) of the 1991 Order (as substituted by Article 23 of the Planning (Amendment) (NI) Order 2003) permits anyone having an estate in land to enter into an agreement with the Department for facilitating or restricting its development or use. An agreement may be subject to conditions, may impose restrictions or requirements indefinitely or for a specified period, and may require the payment of a financial sum and stipulate the period and method of payment.

5.3 The current subordinate legislation dealing with the procedures enabling a person against whom a planning agreement is enforceable to apply to the Department to have the agreement modified or discharged is the Planning (Modification and Discharge of Planning Agreements) Regulations (Northern Ireland) 2005 (“the 2005 regulations”). They make provision with respect to:

- the form and content of applications for the modification and discharge of planning agreements;
- the notification and publicity for such applications;
- the determination of such applications; and
• appeals to the Planning Appeals Commission (PAC) against the Department’s determination on such applications.

5.4 Under sections 76, 77 and 78 of the 2011 Act local councils, as well as the Department, will be empowered to enter into planning agreements where they operate as the “relevant authority” on planning matters. As a result of the transfer of functions to councils it is proposed that the 2005 regulations be revoked and that the Planning (Modification and Discharge of Planning Agreements) Regulations (Northern Ireland) 2015 (“the 2015 regulations”) be introduced to provide the necessary detail on the modification or discharge of planning agreements within the new two-tier planning system.

5.5 The proposed 2015 Regulations, will essentially reproduce the existing provisions of the 2005 Regulations, making provision for:-
• the form and content of applications to modify or discharge an agreement;
• the notification of and publicity for such applications;
• the determination of such applications;
• appeals to the PAC against the relevant authority’s determination of such applications including a revised appeal period of 4 months;
• transitional arrangements in relation to planning agreements and appeals functions exercised prior to the date on which the proposed regulations come into operation, by the Department, which will be exercised after that date by the relevant council. Schedule 2 will set out the planning agreement for which responsibility remains with the Department; and
• revocation of the 2005 regulations with effect from 1 April 2015.

5.6 For those agreements already in the system it is proposed that in line with the new hierarchy of development the Department will retain responsibility for any planning agreement made in relation to what would be considered regionally significant development and all others
will transfer (legally referred to as “novate”) to the new councils. This means that only the planning agreement related to the George Best Belfast City Airport will remain with the Department. All other planning agreements will become the responsibility of the new councils relevant to their respective council areas.

Proposed Change to the Period of Appeal

5.7 Under previous provisions the period for appeal to the PAC against the determination of applications to modify or discharge an agreement was 6 months. It is proposed that any appeal under section 78 of the 2011 Act shall be made within 4 months of the date of the notice of the determination giving rise to the appeal; or in the case of an appeal under section 78(1)(a) (non-determination), the expiry of the period specified in the regulations. The 4 month period for appeal would then be consistent with other appeal provisions under the 2011 Act.

Question 4: Do you agree that the period of appeal against the determination of applications to modify or discharge an agreement should be reduced from 6 months to 4 months in line with other appeal provisions under the 2011 Act?
6 - Associated Subordinate Legislation Not Subject to Public Consultation

6.1 As highlighted earlier in Chapter 1, in addition to proposals relating to new or significantly amended processes and requirements, the Department will also take forward a number of technical SRs which are needed to take account of the new two-tier planning model. These SRs will all be subject to the full scrutiny of the Assembly as part of the legislative process but as they do not involve new policies or significant changes to existing policies they are not being made subject to public consultation.

6.2 However, as in phase 1, in order to provide a comprehensive picture of the broader subordinate legislative programme supporting planning reform and transfer, details are provided in relation to the following technical SRs:

- The Certificates of Alternative Development Value Regulations (NI) 2015;
- The Planning (Commencement) Order(s) (NI) 2015;
- The Planning (Conservation Areas) (Consultation) Regulations (NI) 2015; and

The Certificates of Alternative Development Value Regulations (NI) 2015

6.3 The purpose of these regulations is to provide for the application for and issue of certificates of alternative development value under Article 15 of the Land Compensation (Northern Ireland) Order 1982.

The Planning (Commencement) Order (NI) 2015

6.4 The enabling powers in the 2011 Act need to be brought into operation to facilitate the making of the subordinate legislation in advance of the transfer of planning functions to the new district councils on 1st April
This order will commence Part 3 (Planning Control) of the 2011 Act including the enabling powers necessary for the subordinate legislation to be made. A further commencement order will commence the remaining Parts of the 2011 Act to allow the new two-tier system to operate.

The Planning (Conservation Areas) (Consultation) Regulations (NI) 2015

6.5 Where a council or, as the case may be, the Department intends to make, vary or cancel a conservation area designation these Regulations prescribe the bodies which must be consulted.

The Planning (Inquiry Procedure) Rules (NI) 2015

6.6 The purpose of these Regulations will be to provide procedures to be followed in connection with inquiries to be held under section 235 of the 2011 Act. This is where the Secretary of State (SoS) or the Department of Justice (DOJ) has directed that certain evidence relating to national security or the protection of premises shall only be heard or be open to inspection at an inquiry by persons specified by the SoS or DOJ.
7 – Way Forward

7.1 The Department intends to progress all subordinate legislation which is the subject of phases 1 and 2 of public consultation to facilitate the reform and transfer of planning to the new councils on 1st April 2015, with priority given to the day one essentials needed for the continued operation of the system at the point of transfer.

7.2 This presents a significant workload for both the Department and the Assembly’s Environment Committee but the phasing of proposals is hoped to support a better understanding of the connectedness of the proposals in pursuit of the overall aims of planning reform.

7.3 The Department is committed to reviewing the implementation of the 2011 Act and how it operates in practice. As these proposals are being brought forward through subordinate, rather than primary, legislation there is a degree of flexibility for future amendment should the experiences of councils and the Department under the new two-tier system identify areas for improvement.
8 - Assessments and Freedom of Information

Equality Impact Assessment Screening

8.1 Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the section 75 groups.

Regulatory Impact Assessment

8.2 The Department has conducted partial Regulatory Impact Assessments for each proposed piece of legislation. It does not believe that the legislation will impose any additional costs on business, charities, social economy enterprises or the voluntary sector.

8.3 The findings of each of these type of assessments are available on the Department’s website.

Rural Proofing

8.4 The Department believes that there would be no differential impact in rural areas or on rural communities from any of the proposed pieces of subordinate legislation.

Human Rights

8.5 The Department considers that the proposals laid out in this document are compatible with the Human Rights Act 1998.

8.6 The Department welcomes views and comments on whether the conclusions contained in any of the above assessments are correct.
Freedom of Information Act 2000 – Confidentiality of responses

8.7 The Department may publish a summary of responses following the completion of the consultation exercise. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response please read Annex A on the confidentiality of responses. It gives guidance on the legal position about any information given by you in response to this consultation.
9 - Overview of Consultation Questions

Question 1: Do you agree with the proposed approach in subordinate legislation for councils making and adopting SPZs? .................................................. 17

Question 2: Do you agree with the proposed level of fixed penalty in relation to a breach of an enforcement notice? If not, what do you think the level should be and why? ................................................................. 21

Question 3: Do you agree with the proposed level of fixed penalty in relation to a breach of a condition notice? If not, what do you think the level should be and why? ................................................................. 21

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**By post** to:
Planning Reform & Transfer to Local Government Consultation –
Phase 2
Planning Policy Division
Department of the Environment
Level 6 Causeway Exchange
1-7 Bedford Street
Town Parks
Belfast
BT2 7EG

**By e-mail** to: ppdconsultations@doeni.gov.uk
Annex A - Freedom of Information Act 2000 - Confidentiality of Responses

1. The Department may 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 only refuse to disclose information 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.

2. The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority, namely, 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 be treated as confidential.

3. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. 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; and
   • acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

4. For further information about confidentiality of responses please contact the Information Commissioner’s Office (or see website at: http://www.informationcommissioner.gov.uk ).
Annex B - Consultee List

20:20 Architects
Action on Hearing Loss
Action Renewables
Age NI
An Munia Tober
Aquaculture Initiative EEIG
Archbishop Of Armagh & Primate Of All Ireland
Arcus Architects
Arqiva
Association for Consultancy and Engineering
Atlas Communications
Autism NI
B9 Energy Services Ltd
Bahai Council for NI
Bar Library
Barnardos NI
BBC Engineering Information Department
Belfast Butterfly Club
Belfast Civic Trust
Belfast Harbour Commissioners
Belfast Hebrew Congregation
Belfast Healthy Cities
Belfast Hills Partnership
Belfast International Airport
Belfast Metropolitan College
Belfast Metropolitan Residents Group
Belfast Solicitors Association
Brennen Associates
British Deaf Association (NI)
British Telecom (NI)
Bryson House
Building Design Partnership
Cable & Wireless Communications
Campaign for Better Transport
Cara Friend
Carers Northern Ireland
Carey Consulting
Catholic Bishops of NI
Causeway Coast & Glens Heritage Trust
Chartered Institute of Architectural Technologists
Chartered Institute of Environmental Health
Chartered Institute of Housing
Chief Executive of the NI Judicial Appointments Commission
Chief Officers 3rd Sector
Children’s Law Centre
Chinese Welfare Association
Church of Ireland
Chrysalis Women’s Centre
Coiste – Na N-iarchimi
City of Derry Airport
Civil Aviation Authority
Civil Law Reform Division
Coleraine Harbour Commissioners
Communication Access
Committee for the Administration of Justice
Communities and Local Government
Community Development and Health Network (NI)
Community Places
Community Relations Council
Confederation of British Industry, NI Branch
Construction Employers Federation
Construction Register Ltd
Council for Catholic Maintained Schools
Countryside Access & Activities Network for NI
Courts and Tribunal Services
Crown Castle UK Ltd
Cruse Bereavement Care (NI)
Derryhale Residents’ Association
Derry Well Woman
Development Planning Partnerships
Disability Action
Down’s Syndrome Association
Energy Saving Trust Northern Ireland
Enniskillen Airport
Environment and Planning Law Association of NI
Environmental Health Services Department
Equality Coalition
Equality Commission for NI
Falls Community Council
Falls Women’s Centre
Family Planning Association NI
Federation of Small Businesses
Ferguson & McIlveen
Fisher German LLP
Food Standards Agency NI
Foyle Women’s Information Network
Friends of the Earth
Geological Survey of Northern Ireland
George Best Belfast City Airport
Gingerbread Northern Ireland
Health and Safety Executive Northern Ireland
Health And Social Services Boards and Trusts
HM Council of County Court Judges
HM Revenue & Customs
Human Rights Commission
Indian Community Centre
I-Document Systems
Information Commissioners Office
Institute of Professional Legal Studies
Institute Of Directors
Institute of Historic Building Conservation
Institution of Civil Engineers (NI Association)
International Tree Foundation
Invest NI
Kenneth Crothers, Deane & Curry
Lagan Valley Regional Park Officer
Landscape Institute NI
Larne Harbour Commissioners
Law Centre (NI)
Liz Fawcett Consulting
Local Government Staff Commission NI (LGSC)
Londonderry Port & Harbour Commissioners
Lord Chief Justice Office
Lough Neagh and Lower Bann Management Committees
LPG Association
Magherafelt Women’s Group
Magistrates Court
Manufacturing Northern Ireland
Marks and Spencer
McClelland/Salter Estate Agents
MENCAP
Mens Action Network
Men’s Project – Parent’s Advice Centre
Methodist Church In Ireland
Michael Burroughs Associates
Ministerial Advisory Group for Architecture and the Built Environment in Northern Ireland
Ministry of Defence
Mobile Operators Association
Mono Consultants Limited
Mourne Heritage Trust
Multi-Cultural Resource Centre
National Air Traffic Services (NATS)
National Trust
Newry and Mourne Women Limited
Newtownards Aerodrome
NI Association for Mental Health
NI Association of Citizens Advice Bureau
NI Chamber of Commerce and Industry
NI Chamber of Trade
NI Independent Retail Trade Association
NI Islamic Centre
National Pensioners Convention, NI
NI Women’s Aid Federation
NI Women's European Platform
NIACRO
NIC/ICTU
NICARE
NICOD
NIPSA
North West Architectural Association
Northern Builder
Northern Ireland 2000
Northern Ireland Agricultural Producers Association
Northern Ireland Ambulance Service
Northern Ireland Amenity Council
Northern Ireland Association Engineering Employer's Federation
Northern Ireland Blood Transfusion Service Agency
Northern Ireland Council For Ethnic Minorities
Northern Ireland Court Service
Northern Ireland District Councils
Northern Ireland Economic Council
Northern Ireland Education and Library Boards
Northern Ireland Electricity Plc
Northern Ireland Environment Committee
Northern Ireland Environment Link
Northern Ireland Federation of Housing Associations
Northern Ireland Fire and Rescue Service
Northern Ireland Government Departments
Northern Ireland Housing Council
Northern Ireland Housing Executive
Northern Ireland Law Commission
Northern Ireland Local Government Association
Northern Ireland Members of the House of Lords
Northern Ireland MP's, MEP's, Political Parties and MLA's
Northern Ireland Office
Northern Ireland Public Health Agency
Northern Ireland Quarry Products Association
Northern Ireland Regional Medical Physics Agency
Northern Ireland Women's Rural Network
Northern Ireland Tourist Board
Northern Ireland Women's Rural Network
Northern Ireland Water Ltd
O2
OFCOM
Office of Attorney General for Northern Ireland
Orange
Ostick and Williams
Parenting NI
Participation & the Practice of Rights Project
Participation Network NI
Phoenix Natural Gas Ltd
Planning Appeals Commission
Planning Magazine
Playboard N.I. Ltd
POBAL
Policing Board Of Northern Ireland
Polish Association
Pragma Planning
Presbyterian Church In Ireland
PSNI
Quarryplan Ltd
Queens University
Renewable UK
RICS NI
Rivers Agency
RJM Architects
Robert Turley Associates
Royal National Institute of Blind People (RNIB)
Royal Society for Protection of Birds
Royal Society of Ulster Architects
Royal Town Planning Institute
Royal Town Planning Institute (Irish Branch, Northern Section)
RPS Group PLC
RTPI Irish Branch (Northern Section)
Rural Community Network
Rural Development Council for Northern Ireland
Rural Support
Save the Children
Scottish Government
SENSE NI
Society of Local Authority Chief Executives
Southern Waste Management Partnership
Sport NI
Strangford Lough Advisory Council
Strangford Lough Management Committee
Sustrans
The Architectural Heritage Fund
The Board of Deputies of British Jews
The Cedar Foundation
The Commissioner for Older People for Northern Ireland
The Executive Council of the Inn of Court of NI
The General Consumer Council for NI
The Guide Dogs for the Blind Association
The Law Society of Northern Ireland
The NI Commissioner for Children and Young People
The NI Council for Voluntary Action
The Rainbow Project
The Senior Citizens Consortium Sperrin Lakeland
The Utility Regulator
The Women’s Centre
Three
T-Mobile
Todd Planning
Town and Country Planning Association
Training for Women Network Ltd
Translink
Travellers Movement NI
Turley Associates
Tyrone Brick
Ulster Angling Federation
Ulster Architectural Heritage Society
Ulster Farmers' Union
Ulster Society for the Protection of the Countryside
Ulster Wildlife Trust
ULTACH
UNISON
University of Ulster
Urban and Rural Planning Associates
UTV Engineering Information Department
Virgin Media
Vodafone Ltd
Volunteer Now
Warrenpoint Harbour Authority
Waterways Ireland
Welsh Government
WDR & RT Taggart
Western Group Environmental Health Committee
Wildfowl and Wetland Trust
Women’s Forum NI
Women’s Resource and Development Agency
Women’s Support Network
Woodland Trust
World Wildlife Fund (NI)
Youth Council For Northern Ireland
Abbreviations

BCN  breach of condition notice
DOJ  Department of Justice
EN   enforcement notice
FPN  fixed penalty notice
PAC  Planning Appeals Commission
SoS  Secretary of State
SPZ  simplified planning zone
SR   statutory rule