



Planning Policy
Statement 1

General Principles



The Planning Service

An Agency within the Department of the Environment (NI)

PLANNING POLICY STATEMENT 1

GENERAL PRINCIPLES

This Statement sets out the general principles that the Department observes in formulating planning policies, making development plans and exercising control of development. The Statement also sets out the key themes that underlie the Department's overall approach to planning across the whole range of land-use topics.

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Introduction

- 1.** This Statement sets out the general principles that the Department of the Environment for Northern Ireland, (the Department), observes in carrying out its planning functions, namely formulating planning policies, making development plans and exercising control of development. These principles are founded on the Department's understanding of the law relevant to planning, as contained in statute and interpreted in decisions by the courts. The Statement also sets out the key themes that underlie the Department's overall approach to planning across the whole range of land-use topics. More detailed policy on individual subjects is to be found in other publications in the Planning Policy Statement series.
- 2.** The Statement applies to Northern Ireland as a whole. It supersedes the following provisions of the Department's September 1993 publication "A Planning Strategy for Rural Northern Ireland":

Policy SP 1 - Development Plans

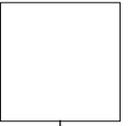
Policy PSU 15 - Infrastructure Costs

Purpose of the Planning System

- 3.** The town and country planning system exists to regulate the development and use of land in the public interest. The public interest requires that all development is carried out in a way that would not cause demonstrable harm to interests of acknowledged importance. It is important to distinguish those matters which planning can influence from those which are outside its control. The central concerns of the planning system are to determine what kind of development is appropriate, how much is desirable, where it should best be located and what it looks like.

Accountability

- 4.** The Department's functions as the planning authority for Northern Ireland are set out in the Planning (Northern Ireland) Order 1991. The Planning Service, an agency within the Department, administers most of these functions. The agency is subject to the direction and control of the Secretary of State for Northern Ireland and the Minister



to whom oversight of the Department is delegated. The Secretary of State is answerable to Parliament for the discharge of all planning functions.

5. The Minister determines the policy framework within which the agency operates and the scope of its activities. The Minister does not normally become involved in the day to day operation of the agency but expects to be consulted by the Chief Executive on the handling of operational matters that could give rise to significant public or parliamentary concern.

Propriety

6. The Department is committed to discharging its responsibilities in an honest, impartial and open manner. It adopts a fully documented and corporate decision-making process. It has published a Charter Standards Statement, setting out a summary of its main services and the standards which members of the public can expect. When proposing planning legislation, formulating planning policy and making development plans, the Department will, in accordance with guidelines entitled "Policy Appraisal and Fair Treatment", take into account any potential differential impacts on particular groups in society.
7. Any decision of the Department may be subject to judicial review if it is considered that the Department may have acted unreasonably. Cases of alleged maladministration may be scrutinised by the Parliamentary Ombudsman. The Department's decisions on planning applications may be appealed by the applicant. These are heard by the independent body, the Planning Appeals Commission. The Commission also holds inquiries and hearings as requested by the Department in respect of such matters as major planning applications and objections to development plans.

The Role of the District Councils

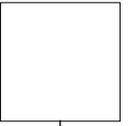
- 8.** The Department has a statutory duty to consult the relevant Council about every planning application it receives and to consult the Council during the preparation of a development plan. This consultation forms an important part of the Department's decision making process. As a matter of policy, the Department regularly consults councils on a wider range of matters than those required by statute. It has established consultation mechanisms designed to ensure that elected representatives have an input to the decision-making process. The Planning Service will continue to seek, in consultation with district councils, means by which, within the scope permitted by legislation, these arrangements could be further improved.

Public Participation

- 9.** The Department recognises that individuals and groups have important contributions to make at key stages in the planning process. The Planning Service will continue to publish a variety of documents aimed at improving public awareness of the system and will consult widely before introducing new planning policies. The Planning Service will facilitate the involvement of local communities in the preparation of development plans for their areas by ensuring adequate publicity at each stage, by organising public meetings at convenient locations and by making officials available for discussions. Those who have objections to draft plan proposals may be afforded the opportunity to present their views at a public inquiry. In addition to advertising applications as required by law, the Planning Service will continue to implement a neighbour notification scheme. The Planning Service will continue to examine ways of improving public consultation and participation.

The Department's Approach to Planning

- 10.** The Department has the important and positive task of guiding appropriate developments to the right places, while preventing developments that are not acceptable. In exercising its planning role, it must make provision for necessary developments, such



as workplaces, houses, schools and roads, and at the same time protect the natural and built environment. It must secure economy and efficiency as well as amenity in the use of land. In exercising its planning functions, therefore, the Department must integrate a variety of complex economic, social, environmental and other factors, many of which have implications beyond the confines of the land-use planning system. The key themes that underlie the Department's approach to planning are sustainable development, mixed use, quality development and design . These themes are set out here and more detailed policies are contained in the other Planning Policy Statements listed in Annex 1.

Sustainable Development

- 11.** Sustainable development seeks to deliver the objective of achieving, now and in the future, economic development to secure higher living standards while protecting and enhancing the environment. The most commonly used definition of sustainable development is "development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (World Commission on Environment and Development, 1987). The Department is committed to the principles set out in the 1994 Government publication "Sustainable Development: The UK Strategy."

- 12.** In working towards sustainable development, the Department will aim to:
 - plan for the region's needs for commercial and industrial development, food production, minerals extraction, new homes and other buildings, while respecting environmental objectives;

 - conserve both the archaeological and built heritage and natural resources (including wildlife, landscape, water, soil and air quality), taking particular care to safeguard designations of national and international importance;

 - shape new development patterns in ways which minimise the need to travel;

- give preference, in the zoning of land, to the development of brownfield sites within built-up areas, before considering the development of greenfield sites, provided that this creates or maintains a good living environment.
 - encourage the use of already developed areas in the most efficient way, while making them more attractive places in which to live and work; and
 - concentrate developments that generate a large number of trips in places well served by public transport.
- 13.** In formulating policies and plans and in determining planning applications the Department will be guided by the precautionary principle that, where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest.

Quality Development

- 14.** In January 1996 the Government introduced the Quality Initiative in Northern Ireland with the aim of promoting the importance of good design and quality in the built environment. The initiative requires the Department to secure a higher quality of design, layout and landscaping than that provided in the recent past, particularly in relation to new housing developments. This will require a more sensitive and responsive approach by developers, one that identifies and makes positive use of the assets of a site and the characteristics of its surroundings to determine the ultimate form of development.

Design Considerations

- 15.** New buildings and their curtilages have a significant effect on the character and quality of an area. They define public spaces, streets and vistas and inevitably create the context for future development. These effects will often be to the benefit of an area but they can be detrimental. They are matters of proper public interest. The appearance of proposed development and its relationship to its

surroundings are therefore material considerations in determining planning applications and appeals. Such considerations relate to the design of buildings and to urban design. These are distinct, albeit closely interrelated subjects. Both are important. Both require an understanding of the context in which development takes place whether in urban or rural areas.

- 16.** For the purposes of this Statement, urban design is to be taken to mean the relationship between different buildings; the relationship between buildings and the streets, squares, parks, waterways and other spaces which make up the public domain; the nature and quality of the public domain itself; the relationship of one part of a village, town or city with other parts; and the patterns of movement and activity that are thereby established: in short, the complex relationships between all the elements of built and unbuilt space. As the appearance and treatment of the spaces between and around buildings is often of comparable importance to the design of the buildings themselves, landscape design will be considered as an integral part of urban design.
- 17.** Good design should be the aim of all those involved in the development process and will be encouraged everywhere. Good design can help promote sustainable development; improve the quality of the existing environment; attract business and investment; and reinforce civic pride and a sense of place. It can help to secure continued public acceptance of necessary new development.
- 18.** Applicants for planning permission will have to be able to demonstrate how they have taken account of the need for good design in their development proposals and that they have had regard to relevant development plan policies and supplementary design guidance. This should be done in a manner appropriate to the nature and the scale of the proposals.
- 19.** The Department will reject poor designs, particularly where there are clear planning policies or supplementary design guidance to support such decisions. Poor designs may include those inappropriate to their context, for example those clearly out of scale or incompatible with their surroundings.

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- 20.** The Department will not attempt to impose a particular architectural taste or style arbitrarily. It is, however, proper to seek to promote or reinforce local distinctiveness particularly where this is supported by clear development plan policies or supplementary design guidance. The details of particular schemes will not normally be assessed except where such matters have a significant effect on the character or quality of the area, including neighbouring buildings. Particular weight will be given to the impact of development on existing buildings and on the character of areas recognised for their landscape or townscape value, such as areas of outstanding natural beauty and conservation areas.
- 21.** Where the design of proposed development is consistent with relevant design policies and supplementary design guidance, planning permission will not be refused on design grounds unless there are exceptional circumstances. Design policies and guidance will focus on encouraging good design and avoid stifling responsible innovation, originality or initiative. Such policies and guidance will recognise that the qualities of an outstanding scheme may exceptionally justify departing from them.
- 22.** Further guidance on the expression of design policies in development plans and supplementary design guidance, and on the information relating to design to be submitted with planning applications, is contained in Annex 3.

Mixed Uses

- 23.** The Department will seek to promote and retain mixed uses, particularly in town centres, in other areas highly accessible by means of transport other than the private car and in areas of major new development. What will be appropriate on a particular site will, among other things, be determined by the characteristics of the area - schemes will need to fit in with, and be complementary to, their surroundings - and the likely impact on sustainability, overall travel patterns and car use. The character of existing residential areas should not be undermined by inappropriate new uses.



- 24.** Major mixed use developments that would attract a significant number of trips should be in locations that are well served by public transport, have adequate infrastructure and are properly integrated, in terms of land use and design, with surrounding areas.
- 25.** Development plans will, where appropriate, identify sites or areas where development should incorporate a mixture of uses and will identify the suitable uses. The plan may indicate if conditions or planning agreements are likely to be used to secure an appropriate mixture of uses.
- 26.** When identifying potential sites for mixed uses, in development plans, the Department may adopt a flexible approach to planning standards such as parking requirements and density, while having regard to the availability of alternative modes of transport, residential amenity and the needs of local business.
- 27.** There may be scope, in parts of Northern Ireland, for development plans to identify sites for high quality, mixed use developments known as “urban villages”. Built on large sites, within existing urban areas, they are characterised by:
- compactness;
 - a mixture of uses and dwelling types;
 - a range of employment, leisure and community facilities;
 - appropriate infrastructure and services;
 - high standards of urban design;
 - access to public open space and green spaces;
 - ready access to public transport; and
 - facilitation of walking and cycling.

Policy Publications

28. The Department has the general function, described in Article 3 of the 1991 Planning Order, “to formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development”. In fulfilment of this responsibility, the Department publishes a variety of policy documents, including Planning Policy Statements and regional locational strategies.

Regional Strategic Framework

29. In November 1997 the Department published a discussion paper, ‘Shaping our Future - Towards a Strategy for the Development of the Region’. This paper is a consultative document to seek public views on the Regional Strategic Framework.

30. It is anticipated that the Regional Strategic Framework will be published in December 1998, following a period of public consultation and an Examination in Public. When complete it will have four main elements:

- a long-term strategic vision for the development of the Region;
- a set of guiding principles, strategic goals, policies and targets;
- a strategy for the location of physical development within the Region; and
- a long-term action plan for the implementation of the strategic vision.

The Regional Strategic Framework will provide the strategic context for the formulation of subsequent development plans.

A Planning Strategy for Rural Northern Ireland

31. The Planning Strategy for Rural Northern Ireland 1993, while

containing a short section on overall strategy, is essentially a compendium of planning policies setting out on a topic basis the factors that the Department takes into account when considering development proposals. It currently applies to that part of Northern Ireland which lies outside the Belfast Urban Area, Bangor, Carrickfergus and Londonderry.

32. The Department has begun progressively to replace the Strategy. The topic sections will be replaced by a series of Planning Policy Statements that will apply to the whole of Northern Ireland. It is envisaged that this process will be completed by 2002. In the meantime, the Strategy will remain in force in respect of those topics not covered by Planning Policy Statements.

Planning Policy Statements

33. Planning Policy Statements set out the policies of the Department on particular aspects of land-use planning and apply to the whole of Northern Ireland. Their contents will be taken into account in preparing development plans and are also material to decisions on individual planning applications and appeals. Planning Policy Statements may, from time to time, be revised to take account of changing circumstances, including experience gained through the development planning and development control processes. Good practice guides may also be issued to illustrate how concepts contained in Planning Policy Statements can best be implemented.
34. The Department has a rolling programme for the preparation of Planning Policy Statements. Annex 1 sets out the Planning Policy Statements that have been issued, to date.

Development Plans

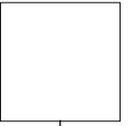
35. Development plans may be in the form of area plans, local plans or subject plans. They apply the regional policies of the Department at the appropriate local level. Development plans inform the general public, statutory authorities, developers and other interested bodies

of the policy framework and land use proposals that will be used to guide development decisions within their local area. Development plans provide a basis for rational and consistent decisions on planning applications and provide a measure of certainty about which types of development will and will not be permitted. Development plans are the primary means of evaluating and reconciling any potential conflict between the need for development and the need to protect the environment within particular areas.

- 36.** The Department will monitor existing plans and assess the need for new or altered plans. The programme of plan preparation is kept under review. The Government has given a commitment to introduce, in due course, legislation providing that development plans will have prime importance in the determination of planning applications.

Content

- 37.** Development plans consist of a written statement and maps and such diagrams, illustrations and descriptive matter as the Department thinks appropriate. The plans will normally focus on the following:-
- committed public sector proposals affecting specific sites (examples: housing redevelopment areas, comprehensive development schemes, road schemes and environmental improvements);
 - zonings of land for particular forms of development (examples: housing, industry, town centre retailing and development opportunity sites) and the need, where appropriate, for comprehensive design schemes;
 - designation of areas to which regional policies will apply (examples: Green Belts and primary retail cores); and
 - designation of other site-specific policy areas (example, Local Landscape Policy Areas).



- 38.** Plans will set out, for information purposes, the relevant designations made under non-planning legislation, such as areas of outstanding natural beauty or sites of nature conservation importance. They will also refer to areas already designated using planning powers, for example conservation areas. While such designations will not in themselves be open for further public debate, any local policies and proposals set out in the plan in respect of designated areas will be open to representation and objection

Requirements affecting Zoned Sites

- 39.** Development plans will set out the main planning requirements which developers will be expected to meet in respect of particular zoned sites. Access points, servicing arrangements and portions of land to be kept free from built development may be specified. Where it is clear that a site can be developed for the purposes for which it is zoned only if physical and environmental constraints are overcome or significant new infrastructure is provided, development plans will draw attention to these requirements. Requirements which plans may specify include:

- identification of locally important vistas, landmarks, landscape elements and spaces for retention and, where possible, enhancement;
- setting out requirements for the arrangement and appearance of new housing in particular urban areas whose distinctive character would benefit from being reinforced;
- laying down guidelines for the size, positioning and external appearance of new buildings in particular streets, so as to maintain the rhythm and integrity of frontages;
- stipulating maximum or minimum building heights in particular locations;
- setting out landscape scheme requirements.

Phasing

- 40.** Where circumstances warrant, plans may specify a phased release of development land. Phasing may be necessitated by considerations relating to infrastructure or the adequacy of other services, which may indicate that a particular area cannot be released for development until a particular stage in the plan period. Phasing may also be introduced in areas that are under severe pressure for development, where there is evidence that market demand would exhaust total planned provision in the early years of the lifetime of the plan. Where phasing provisions are included in a plan, they will normally take the form of a broad indication of the timescale envisaged for the release of the main areas or identified sites. Phasing proposals will be explained and justified in the plan's written statement. Allowance will be made for a reasonable degree of choice and flexibility, in order to ensure that the market can work effectively and efficiently.

Strategic Environmental Appraisal

- 41.** The Department will carry out a strategic environmental appraisal in respect of all its development plans. This appraisal will identify the main environmental concerns of direct relevance to the plan area. It will assess the probable environmental impacts of the plan's policies or proposals. The appraisal process will help to pinpoint those options most likely to be environmentally beneficial. Where consequences adverse to the environment are anticipated possible mitigation measures may be considered. The appraisal will be published with the development plan.

Countryside Assessment

- 42.** Countryside Assessments are an integral part of the development plan-making process. They will normally include the following four inter-related strands:



- An Environmental Assets Appraisal that seeks to establish and evaluate the environmental assets and resources of a plan area, for example, important landscapes, wildlife habitats and archaeological and historic features. It will also assist in defining development plan designations such as Areas of Townscape Character.
- A Landscape Assessment to define the main landscape character areas of the plan area and the variations between them. Where appropriate, it will identify landscapes that are vulnerable because of their limited capacity to absorb further development.
- A Development Pressure Analysis that seeks to identify areas where significant development pressure has occurred and/or where local rural character is under threat of significant change. Combined with the landscape assessment this information will inform the designation of Green Belts and Countryside Policy Areas.
- A Settlement Appraisal which in conjunction with an assessment of development needs of a plan area will provide the basis for identification of limits of development and where appropriate land use zonings.

Supplementary Planning Guidance

43. The Department also prepares non-statutory planning guidance to supplement, elucidate and exemplify its policy documents and development plans. Supplementary guidance produced by the Department 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. Those currently published are listed in Annex 2 . The Department also produces design guides for specific areas. Such guidance, for example conservation area guides and planning briefs for individual sites, will be consistent with the development plan and cross-referenced, as appropriate, to relevant policies and proposals in the plan.

Development Control

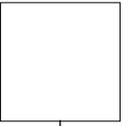
- 44.** Article 25 of the 1991 Planning Order states that “where an application is made to the Department for planning permission, the Department, in dealing with the application, shall have regard to the development plan, so far as material to the application, and to any other material considerations”.

Development Plans as Material Considerations

- 45.** The relevance of the development plan varies from application to application. A plan may not provide a clear guide to the determination of a particular application because, although it contains material policies, they pull in opposite directions. Moreover, plans cannot anticipate every possible development proposal that may be put forward during their lifespan and are often silent on issues raised by planning applications. The number of years that has elapsed since a plan was adopted is not in itself important. Even after their stated end dates, plans continue to be a material consideration to the extent that their policies and proposals remain applicable to current circumstances. Regional strategies or policies published by the Department may take precedence over existing development plans, while developments that have taken place since the plan became operative may nullify some of its provisions.

Prematurity

- 46.** Where a plan is under preparation or review it may be justifiable, in some circumstances, to refuse planning permission on the grounds of prematurity. This may be appropriate in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would prejudice the outcome of the plan process by predetermining decisions about the scale, location or phasing of new development which ought properly to be taken in the development plan context. A proposal for development that has an impact on only a small area would rarely come into this category; but a refusal might be



justifiable where a proposal would have a significant impact on an important settlement, or a substantial area, with an identifiable character. Where there is a phasing policy in the development plan, it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect.

- 47.** Other than in the circumstances described in paragraph 46, refusal of planning permission on grounds of prematurity will not usually be justified. Planning applications will continue to be considered in the light of current policies. However, account will also be taken of policies in emerging development plans that are going through the statutory procedures towards adoption. The weight to be attached to such policies depends upon the stage of plan preparation or review, increasing as successive stages are reached. For example:
- where a plan is at the preliminary proposals stage, with no early prospect of reaching draft plan stage, then refusal on prematurity grounds would seldom be justified because of the lengthy delay which this would impose in determining the future use of the land in question;
 - where a plan is at the draft stage but no objections have been lodged to relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted and replace those in the existing plan. The converse may apply if there have been objections to relevant policies. However, much will depend on the nature of those objections and also whether there are representations in support of particular policies;
- 48.** Where planning permission is refused on grounds of prematurity the Department will give clear reasons as to how the grant of permission for the development concerned would prejudice the outcome of the development plan process.

Other Material Considerations

- 49.** Material planning considerations must be genuine planning considerations, i.e. they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest. The considerations must also fairly and reasonably relate to the application concerned. Much will depend on the nature of the application under consideration, the relevant planning policies and the surrounding circumstances. All the fundamental factors involved in land-use planning constitute a material consideration. This includes such things as the number, size, layout, siting, design and external appearance of buildings and the proposed means of access, together with landscaping, impact on the neighbourhood and the availability of infrastructure. Relevant considerations will vary from circumstance to circumstance and from application to application.
- 50.** The Department's planning policy publications are material considerations and due regard will be paid to them. Emerging policies, in the form of draft statements and strategies that are in the public domain, may also be regarded as material considerations, although less weight will be ascribed to them than to final publications. Supplementary planning guidance may be taken into account as a material consideration in determining a planning application and the weight accorded to such guidance will increase if it has been prepared in consultation with the District Council and the public.
- 51.** The Department will base its decisions on planning applications on planning grounds alone. It will not use its planning powers to secure objectives achievable under non-planning legislation, such as the Building Regulations or the Water Act. The grant of planning permission does not remove the need for any other consents, nor does it imply that such consents will necessarily be forthcoming. However, provided a consideration is material in planning terms, it will be taken into account, notwithstanding the fact that other regulatory machinery may exist.

- 52.** The planning system does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases. It can be difficult to distinguish between public and private interests, but this may be necessary on occasion. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals can be measured.

Environmental Assessment

- 53.** Certain developments fall within the scope of the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989 (as amended), and in considering planning applications for such developments the Department may require the submission of an environmental statement. The purpose of environmental statements is to provide fuller and better information on the likely effects of proposals. Environmental assessment is mandatory for projects listed in Schedule 1 to the Regulations, while projects listed in Schedule 2 will require assessment if the Department considers they are likely to have significant environmental effects by virtue of factors such as their nature, size or location. The indicative criteria and thresholds that are taken into account when making such judgements are set out in the Department's Development Control Advice Note 10 "Environmental Impact Assessment". In deciding whether to ask for an environmental statement, the Department will draw on experience of similar developments that have taken place elsewhere and may, on occasion, seek specialist advice. An environmental statement is a publicly available document prepared by the developer.

Major Planning Applications

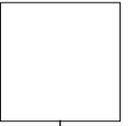
54. Article 31 of the 1991 Planning Order lays down a special procedure that enables the Department to reserve to itself the final decision on proposals that raise issues of national or regional importance or on cases of a particularly contentious and sensitive nature. The Department may deem an application to be a major planning application if it considers that the proposed development would, if permitted:

- involve a substantial departure from the development plan; or
- be of significance to the whole or a substantial part of Northern Ireland; or
- affect the whole of a neighbourhood; or
- involve the construction or alteration of an access to, or development near, a motorway or trunk road.

55. The Department may decide to hold a Public Inquiry into a major planning application to consider representations and where material planning factors are the subject of dispute. If a Public Inquiry is not held the Department will issue a notice of opinion to approve or refuse the application. Following the issue of a notice of opinion the applicant can request a hearing before the Planning Appeals Commission. In determining a major application the Department shall, where an inquiry or hearing is held, take into account the report of the Planning Appeals Commission. The decision of the Department on a major application shall be final.

Planning Conditions

56. The Department has the power to attach conditions to a grant of planning permission. This ability can enable it to approve development proposals where it would otherwise be necessary to refuse planning permission. However, the Department will only impose conditions that, in its opinion, are necessary, relevant to



planning, relevant to the development being permitted, precise, enforceable and reasonable in all other respects. One key test of whether a particular condition is necessary is if planning permission would have been refused if the condition were not imposed. Otherwise, such a condition would need special and precise justification.

57. Unless otherwise specified, a planning permission relates to land rather than those persons who own or occupy it. The Department considers that it is seldom desirable to provide for any other arrangement. However, the personal or domestic circumstances of an applicant, or the difficulties encountered by a business that is of value to the local community, may, exceptionally be material to the consideration of a planning application. While such arguments will seldom outweigh general planning policy considerations, in exceptional circumstances, the Department may grant planning permission subject to a condition that it is personal to the applicant.
58. The Department may attach a negative condition to a planning permission requiring that development shall not take place until works to facilitate it, such as road widening or other infrastructural improvements, have been carried out. Negative conditions will be imposed only where there is a reasonable prospect of the required works being carried out within the period during which the planning permission will remain live. It is the policy of the Department to refuse planning permission where it considers that such a reasonable prospect does not exist.

Refusal of Planning Permission

59. The Department's guiding principle in determining planning applications is that development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In such cases the Department has power to refuse planning permission. Grounds for refusal will be clear, precise and give a full explanation of why the proposal is unacceptable to the Department.

Appeals

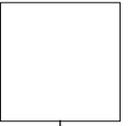
- 60.** Applicants who are refused planning permission, or who are granted permission subject to conditions that they find unacceptable, or who do not have their applications determined within two months, may appeal to the Planning Appeals Commission

Developers' Contributions

- 61.** The Department will normally require developers to bear the costs of works required to facilitate their development proposals. Contributions may be required in a variety of circumstances including:
- where a proposed development requires the provision or improvement of infrastructural works over and above those programmed in development plans;
 - where earlier than planned implementation of a programmed scheme is required;
 - where a proposed development is dependent upon the carrying out of works outside the site.

Planning Agreements

- 62.** Article 40 of the 1991 Planning Order empowers the Department to enter into an agreement with any person who has an estate in land, for the purpose of facilitating, regulating or restricting the development or use of the land. Such agreements, which are normally tied to a planning permission, are binding on future owners or occupiers of the land. They may include provisions of a financial character. If there is a choice between imposing planning conditions and entering into a planning agreement, the Department will normally opt for conditions since they are simpler to administer and are subject to appeal. The Department will not make a practice of re-stating, in planning agreements, conditions attached to planning permissions because to do so would entail duplication and frustrate the right of applicants to appeal.



- 63.** Before entering into a planning agreement, the Department will wish to be satisfied that it provides an acceptable means of overcoming the particular obstacles to development. An agreement does not, in itself, confer planning permission nor does it determine the outcome of a related application. An agreement must be signed before planning permission is granted.
- 64.** The Department will seek planning agreements only where the benefit sought is related to the development and necessary to the grant of permission. Unacceptable development will not be permitted because of unrelated benefits offered by the applicant nor will acceptable development be refused permission simply because the applicant is unable or unwilling to offer such unrelated benefits. Planning agreements can apply to land, roads or buildings other than those covered by the planning permission provided there is a direct relationship between the two. Agreements will not be sought where this connection does not exist or is too remote to be considered reasonable.
- 65.** The Department regards it as reasonable to seek planning agreements where what is required:
- is needed to enable the development to go ahead; or
 - will contribute to meeting the cost of providing necessary facilities in the near future; or
 - is otherwise so directly related to the proposed development and to the use of the land after its completion, that the development ought not to be permitted without it; or
 - is designed to secure an acceptable balance of uses; or
 - is designed to secure the implementation of development plan policies in respect of a particular area or type of development; or
 - is intended to offset the loss of or impact on any amenity or resource present on the site prior to development.

- 66.** A developer will be expected to pay for, or contribute to the cost of, infrastructure that would not have been necessary but for the development. However, the size of any such payment will be fairly and directly related to, and will not exceed, the benefit that the proposed development will derive from the facilities to be provided. Developers will not normally be required by means of planning agreements to pay commuted maintenance sums for facilities that will become assets vested in the Department.

Enforcement

- 67.** The purpose of the planning enforcement provisions in the 1991 Planning Order is to protect the integrity of the planning system and development control process by enabling the Department to remedy any harm to amenity or other interest of acknowledged importance that may result from unauthorised development. Whether to take enforcement action and, if so, what action is best suited to the particular circumstances, are matters for the Department's discretion.

- 68.** The Department's main enforcement powers are:

- to issue an enforcement notice stating the required steps to remedy the breach within a time period (there is a right of appeal against an enforcement notice);
- to serve a stop notice which can prohibit, almost immediately, any activity to which the accompanying enforcement notice relates (there is no right of appeal against a stop notice);
- to enter on to privately owned land for enforcement purposes;
- following the landowner's default, to enter land and carry out the remedial work required by an enforcement notice and to recover from the owner any expenses reasonably incurred by it in that behalf; and
- to require the submission of a planning application.



- 69.** After an enforcement notice has become effective, or at any time after a stop notice has been served, it is a criminal offence not to comply with an enforcement notice's requirements or contravene the prohibition in a stop notice.

- 70.** The Department intends to issue a draft Planning Policy Statement on Enforcement in the near future.

Annex 1: Planning Policy Statements

PPS 1 General Principles

PPS 2 Planning and Nature Conservation

PPS 3 Development Control and Roads Considerations

PPS 4 Industrial Development

PPS 5 Retailing and Town Centres



Annex 2: Development Control Advice Notes

1. Amusement Centres
2. Multiple Occupancy
3. Bookmaking Offices
4. Hot Food Bars
5. Taxi Offices
6. Restaurants and Cafes
7. Public Houses
8. Small Unit Housing in Existing Residential Areas
9. Residential and Nursing Homes
10. Environmental Impact Assessment
11. Access for People with Disabilities
- 11a. Nature Conservation and Planning
12. Hazardous Substances
13. Creches, Day Nurseries and Pre-School Playgroups

Annex 3 : Design

- (i) Development plans will set out design policies against which development proposals are to be considered. Policies will be based on a proper assessment of the character of the surrounding built and natural environment, and will take account of the defining characteristics of each local area, for example local or regional building traditions and materials. The fact that a design or layout is appropriate for one area does not mean it is appropriate everywhere. Plan policies will avoid unnecessary prescription or detail and concentrate on guiding the overall scale, density, massing, height, landscape, layout and access of new development in relation to neighbouring buildings and the local area more generally.
- (ii) Development plans may refer to supplementary design guidance, including local design guides and site specific development briefs, which can usefully elucidate and exemplify plan policies, thereby giving greater certainty to all those involved in the design and development process. Where appropriate, such guidance will also explain how relevant general advice, including that relating to the design of roads and footways, is to be interpreted and applied at a local level in order to take account of the character of each area. Supplementary design guidance may usefully include advice about matters such as lighting and materials, where these are likely to have a significant impact on the character or quality of the existing environment.
- (iii) Applicants for planning permission will be required, as a minimum, provide a short written statement setting out the design principles adopted as well as illustrative material in plan and elevation. This material will show the wider context and not just the development site and its immediately adjacent buildings. Inclusion of relevant perspective views can also be of value. Such material will be particularly important in relation to complex or large-scale development proposals, and those involving sensitive sites. For straightforward or smallscale proposals, this level of detail is unlikely to be necessary. Instead, illustrative material might simply comprise photographs of the development site and its surroundings, drawings of the proposed design itself and, where appropriate, plans of the proposed layout in relation to neighbouring development and uses.



- (iv) Applicants are encouraged to consult at an early stage with those, including local planning offices, who may be expected to have a relevant and legitimate interest in the design aspects of their development proposals. Where applicants do so, local planning offices will respond constructively by giving clear indications of their design expectations. Careful and early consideration of design issues can speed up the planning process by helping to make proposals for development acceptable thereby helping to avoid costly delay later.

- (v) The use of conditions or planning agreements can be helpful in securing a high quality of design. Where design aspects of an approved development proposal are subject to conditions or are subject to planning agreements, development that results from the grant of planning permission must comply with the approved design, unless subsequent changes to the design are justified, and are authorised by the Department.

Annex 4 : Statutory Framework

Primary Legislation

Date	No.	Title
1964	Ch.29	Lands Tribunal and Compensation Act (Northern Ireland) 1964
1965	Ch.23	Land Development Values (Compensation) Act (Northern Ireland) 1965
1971	Ch.23	Planning and Land Compensation Act (Northern Ireland) 1971
1972	1634 (N.I.17)	Planning (Northern Ireland) Order 1972 [Only Compensation Provisions Remain]
1973	1896 (N.I.21)	The Land Acquisition and Compensation (Northern Ireland) Order 1973
1978	1048 (N.I.18)	The Planning (Amendment) (Northern Ireland) Order 1978 [Only Compensation Provisions Remain]
1980	1086 (N.I.12)	The Private Streets (Northern Ireland) Order 1980 [as amended by 1992 N.I. 19]
1981	607 (N.I.15)	The Enterprise Zones (Northern Ireland) Order 1981
1981	608 (N.I.16)	The Planning Blight (Compensation) (Northern Ireland) Order 1981
1982	712 (N.I.9)	The Land Compensation (Northern Ireland) Order 1982
1982	1537 (N.I.20)	The Planning (Amendment) (Northern Ireland) Order 1982 [Only Compensation Provisions Remain]
1990	1510 (N.I.14)	The Planning and Building Regulations (Amendment) (Northern Ireland) Order 1990 [Only Compensation Provisions Remain]
1991	1220 (N.I.11)	Planning (Northern Ireland) Order 1991
1992	1307 (N.I.8)	The Home Loss Payments (Northern Ireland) Order 1992