NIRIG response to DOE Public Consultation on
Planning Reform and Transfer to Local Government: Proposals for
Subordinate Legislation (Phase 1)
The Planning Act (NI) 2011

19th August 2014

Introduction

The Northern Ireland Renewables Industry Group (NIRIG) is a joint collaboration between the Irish Wind Energy Association and RenewableUK. NIRIG represents the views of the large and small scale renewable energy industry in Northern Ireland, providing a conduit for knowledge exchange, policy development support and consensus on best practice between all stakeholders in renewable energy.

NIRIG welcomes the opportunity to respond to the proposals for Subordinate Legislation on Planning Reform and Transfer to Local Government as the Planning System in any jurisdiction has an important role in the sustainable economic development of a region. In Northern Ireland it will play a key role in enabling the Northern Ireland Executives’ renewable energy targets as set out in the Strategic Energy Framework\(^1\) 2010 (SEF).

Between 1/7/2013 and 30/6/2014 electricity from renewables represented more than 18% of demand in Northern Ireland. More than 90% of this was delivered by wind generation, demonstrating the increasing importance of renewables to our sustainable future.

Hierarchy of development

NIRIG agrees in principal with the proposed division of applications into regionally significant, major and local. However, we strongly maintain that all windfarm applications $\geq$5MW should be classified as regionally significant developments in that they have a “critical contribution to make to the economic and social success of Northern Ireland as a whole or a substantial part of the region” and are strategically significant to the whole or a substantial part of Northern Ireland.

The associated grid infrastructure should also be considered regionally significant as this is integral to the purpose of a renewables project. A number of sub-stations are associated with multiple wind farm projects. As a consequence, clusters of individual wind farms with a cumulative capacity of greater than 56MW will be reliant on a single cluster sub-station. Such infrastructure would by the current definition be regionally significant. However, for consistency of treatment NIRIG believes that all grid infrastructure associated with wind farms be considered regionally significant.

The development of an offshore generating station comprising both onshore and offshore elements will require applications under the Planning Act, the Marine and Coastal Access Act 2009 and the Electricity (Northern Ireland) Order 1992, all of which will be considered together under a memorandum of understanding between DoE and DETI for streamlining regionally significant applications. It is therefore necessary to ensure that all elements of the development are considered together and that the thresholds in Annex C cater for such situations.

NIRIG strongly requests that all wind energy developments >5MW remain the remit of the Strategic Projects Team in order to best ensure the delivery of the Executive objectives contained within the SEF. The Regional Development Strategy 2035 discusses how Regionally Significant Economic Infrastructure will contribute to the Northern Ireland economy, including projects that ‘contribute to the achievement of renewable energy targets’ and states ‘“The Department (as opposed to councils) will deal with regionally significant development” (4.29).

By their very nature, wind energy developments are large scale infrastructure projects and are predominantly located in upland areas. As such, many wind farm applications will have effects at a larger than local scale, tending to fall along or close to district council boundaries, and be visible across council areas. The significance of wind energy development also goes beyond a single district council area, both in terms of potential impacts and benefits. Due to these characteristics, it is therefore essential that all wind farm applications should be classed as regionally significant applications.

In the absence of demonstrable expertise at Local Council level in the assessing of significant large-scale wind farm applications, we recommend that such projects continue to be assessed by the Department where these skills and experience have been built up over a number of years.

By using a threshold of 30MW only a small percentage of wind farm projects will be assessed centrally. We would argue that the importance of such projects to Northern Ireland’s economic development is not reflected through use of this threshold.
NIRIG welcomes the measures proposed to improve the overall timeframe in which applications are dealt with. A statutory timeframe is a fundamental requirement in order for any significant improvement in turnaround timeframe for the planning applications. We further believe that a statutory timeframe for response should include methods of ensuring that responses are substantive. In the absence of a substantive response within the timeframe it should be determined that a response after this date be accorded no weight. We understand that the Programme for Government objective to ‘ensure 90% of large scale investment planning decisions are made within 6 months and applications with job creation potential are given additional weight’ will still apply and that Councils will have to abide by these timeframes. Wind farms clearly fall into this category.

We would also recommend that statutory timeframes be introduced for representations on projects to be made to avoid applications being delayed.

Transitional arrangements

Clarification is required regarding transitional arrangements. We have deep concerns on the possibility that determination of applications submitted after April 2015 could be deferred until an LDP is adopted. Should this happen, delays of 4 years to determine projects are not unrealistic. NIRIG considers a more appropriate transitional approach would be to retain applications (where consultation has commenced) with the Department until determination.
Legislative clarification is required as regards what measures will be taken to ensure that no repeat consultations take place or delays allowed in determinations due to additional and/or unnecessary requests for information, or non-determination on the grounds of prematurity.

NIRIG also believes that confusion may arise during the transitional period based on the current proposals. We recommend that the plans adopted by the Department prior to 1\textsuperscript{st} April 2015 continue to apply until the new plan prepared by the Council has been adopted. Any variation in this approach would require clear guidance on how Council plans are weighted throughout the process of consultation and soundness testing.

*Local Development Plans (LDP)*

NIRIG strongly recommends that the requirements on Councils regarding regional policy be strengthened. The current wording would allow Councils to develop policy within their LDPs which conflicts with regional policy. This would cause uncertainty for applicants and third parties. We instead recommend that it be a requirement that Councils ‘comply with’, are ‘consistent with’ or ‘conform to’ regional policy, in particular the Regional Development Strategy and SEF. The test for soundness of Plan Strategies and Local Policy Plans should also deliver more certainty by requiring these to be consistent with, conform to or comply with extant regional policy.

We would urge that clear and timely call-in procedures be proactively utilised by the Department if Councils make decisions that are inconsistent with the Regional Development Strategy and SEF.

We would urge extreme caution in the proposal to introduce spatial planning. Experience from this approach in Wales (Technical Advice Note 8) demonstrates that this approach can have perverse results. In some places identified by TAN8 as suitable for renewable development decision-making by Local Authorities does not always follow the original intention. Furthermore, some areas which in technical and environmental terms are ideal locations for onshore wind are nevertheless ruled out for onshore wind development. As a consequence, Wales is failing to meet its own targets for development of renewable energy. The Welsh Government will introduce the Planning (Wales) Bill in autumn of this year which will move responsibility for determining projects 25MW-50MW to Welsh Ministers and away from Local Authorities as nationally strategic infrastructure.

NIRIG recommends that there should be a central register maintained on the DOE website to outline the status of all LDPs. This register should be updated and maintained by the Department. As above, we also request clarification regarding project determination where an LDP is not produced in a timely manner.
Community engagement and good practice

NIRIG welcomes a development management system that is reliable, transparent, efficient and provides a greater certainty and speed of decision making as a means of creating good quality sustainable places. As an industry we will support the DOE and local councils by continuing to carry out robust pre-planning scoping exercises and submitting comprehensive environmental impact statements and planning applications in line with legislation.

NIRIG also notes our full commitment to leading in best practice on community engagement and benefit and the demonstration of renewables leadership in this regard.

RIA

We have concerns on the absence of a full RIA for such an important piece of legislation.

SECTION 2- LOCAL GOVERNMENT & PLANNING REFORM- A NEW TWO TIER PLANNING SYSTEM

Question 1: Do you agree that local advertisement should mean that a council must place an advertisement for two consecutive weeks in at least one local newspaper circulating in its district?

NIRIG does not agree that this is sufficient. NIRIG recommends that in addition to the proposed method of advertisement there is a central register maintained on the DOE website which would outline the status of all district councils development plans. This register should be updated and maintained by the Department similar to the current EPIC planning tracking system, and the requirement allowed for by legislation.

Question 2: Do you agree with the list of statutory consultees for LDP preparation and are there any bodies/persons we have missed?

NIRIG agrees with the consultees proposed as part of the LPD preparation.

Question 3: Do you agree with the preparation, content agreement and publicity arrangements for the development plan timetable? If not can you identify amendments which would offer greater benefits?

NIRIG agrees that there should be legislative timeframe on statutory consultees to respond to LPD consultation.
NIRIG has concerns regarding the speed of adoption of LDPs. Clarification is sought regarding the timeline for the preparation of the Preferred Options Paper for each Council.

Clarification is required regarding transitional arrangements. We have express concern that applications could be deferred determination indefinitely where a LDP is not adopted. We suggest that precautions are taken to ensure that this situation does not occur.

NIRIG also considers that the DOE should be responsible for maintaining an online register of all LDPs which outlines the status and timeframe of each LDP.

**Question 4: Do you agree with this approach in relation to the involvement of statutory consultees in the preparation of a POP?**

NIRIG agrees that there should be involvement of statutory consultees in the preparation of a POP: however we would request that there is a statutory requirement on the timeframe on consultee responses to ensure efficient development of the LDPs.

NIRIG also requests a proposed timeframe regarding the preparation of a POP.

**Question 5: Do you think that the proposed publicity and consultation arrangements for the POP are appropriate / adequate?**

In addition to the measures proposed we recommend that the POP be made available on council and DOE website.

**Question 6: Do you agree with the form, content, publicity and consultation arrangements for the DPDs?**

NIRIG agrees in principal with the consultation arrangements proposed however we have the following comments in relation to Section 3.37, Section 3.43 and Section 3.48.

**Section 3.37** states “in preparing the PS the council must take account of the Regional Development Strategy and any policy and advice contained in guidance issues by the Department and it may have regard to such other information and considerations as appear to the council to be relevant”

Policy and advice issued by other Departments and indeed UK and European legislation should be given weight in the development of each Plan Strategy and should be referenced here. These primarily include the Strategy Energy Framework 2010 (SEF) and Renewable Energy Directive, along with ‘Envisioning the Future, Considering Energy in Northern Ireland to 2050’. We believe that the language here should be strengthened so that the council must do more than ‘take account’ of the RDS and instead should ‘comply with’, ‘be
consistent with’ or ‘conform to’ the Regional Development Strategy and SEF. In addition, Councils should comply with relevant national and international legislation, in particular European legislation such as the Renewable Energy Directive.

NIRIG believes that there should be a constraint on the information and considerations that can be taken account of by councils. The current wording has the potential for councils to consider unsubstantiated assertions from climate change deniers (for example) to be relevant. We would suggest that any considerations or information considered by Councils to be relevant should be robust and evidence-based.

**Section 3.43** - the department wishes to ensure that the council LDP includes proposal maps that contain enough detail to enable users of the planning system to identify the locations and proposals for the development and use of land in its district.

NIRIG strongly feel that the introduction of a spatial element to the planning system specifically related to onshore wind development should be avoided. The existing Supplementary Planning Guidance to PPS 18 is already sufficiently spatially oriented.

Where a spatial approach has been adopted (e.g. Wales), it has led to areas suitable for onshore wind farm development being effectively sterilised. Site suitability is best considered when each application is assessed on its own merits.

There are many constraint factors which the renewables industry already takes into consideration including, for example wind resource availability, landscape character assessment, separation distance to dwellings, available road infrastructure, ecology, road separation distance. Such constraints are already incorporated in Planning Policy - Renewable Energy PPS18 and within the proposed Strategic Planning Policy Statement.

NIRIG understands that NIEA has committed to reviewing the Landscape Character Assessment for Northern Ireland 2000 in line with practice elsewhere in the UK. We would like to better understand the timing of this review and its methodology, and request appropriate engagement.

Wind farm projects have complex specific locational requirements and must be sited where there is a reliable source of wind energy, sufficient land to accommodate the proposed number of turbines, planning potential and the possibility for connecting the wind farm to the electricity network. Deciding where to site a windfarm and the individual turbine structures within the available landholdings follows a rational assessment of the ability of a proposed location to accommodate a wind farm. These constraints and the feasibility process are detailed within the Environmental Impact Statement carried out for individual windfarm projects.

**Section 3.48** refers to Waste and Regional Transportation strategies. NIRIG strongly recommends the inclusion of energy strategy; specifically the SEF.
Question 7: Do you agree with the arrangements for making representations and counter representations?

NIRIG agrees in principal with the consultation arrangements proposed however we request that the DOE publish the status regarding each DPD on their website.

Question 8: Do you agree with the publicity requirements and other arrangements for independent examination?

NIRIG requests that there is a legislative requirement to include the following:

- Notify anyone who has made a representation to the preparation of the DPD.
- Ensure all documents submitted for examination are made available on the councils and DOE’s website.

Question 9: Do you agree with the proposed soundness tests which will be elaborated upon in guidance? Are there other tests that you feel should be applied to the examination of the DPD?

We recommend that the test of soundness deliver greater certainty by requiring that Councils ‘comply with’, are ‘consistent with’ or ‘conform to’ extant regional policy, in particular the Regional Development Strategy and Strategic Energy Framework.

NIRIG believes that the soundness test must include an assessment of the LDP against European Energy legislation.

Question 10: Do you agree with the withdrawal arrangements for a DPD?

NIRIG agrees with the arrangements, however measures must be put in place to ensure determination on existing planning applications are not delayed owing to the withdrawal and subsequent adoption of a DPD.

Question 11: Do you agree with the adoption arrangements for a DPD?

NIRIG seeks clarification regarding the determination of existing planning applications prior to the adoption of a DPD. These applications must be determined in respect to the development plan/Regional Strategies and SPPS at the time of submission.
We include in the Annex a chart which outlines the potential timeframe of application determinations for those projects in the planning system at the time of transition. This demonstrates that delays of up to 4 years are not unrealistic. This is excessive and as a result we believe that wind farm applications in the planning system at the time of transition should remain with the Department’s Strategic Projects team and be determined according to the 2011-2015 Programme for Government objective ‘to ensure that investment planning decisions are made within 6 months and applications with job creation potential are given additional weight’.

**Question 12: Do you agree with the arrangements for the monitoring, review and revision (if required) of the LDP?**

NIRIG requests that the review includes an assessment of the relevant Council’s contribution to meeting regional renewable energy targets and development of utility infrastructure. At the moment the parameters focus almost exclusively on housing matters. It is crucial that Councils report on renewable energy targets and objectives and these are actively complied with, in particular the Strategic Energy Framework and the EU Renewable Energy Directive, among others.

The proposed regulations should require that report must specify measures taken by the Council to achieve renewable energy targets and how the council have contributed to utility infrastructure in their region and overall in NI.

**Question 13: Do you agree with the Department’s intervention/default powers?**

NIRIG agrees with the intervention default powers proposed. We believe that the draft LPP and draft PS and final DPD must comply with, conform to or be consistent with regional renewable energy targets and objectives. Documents that do not do so should be subject to the powers of intervention by the Department.

The chart in Annex 1 demonstrates the potential for delays in determining applications if there are delays in adoption of LDPs. This is one key reason why the Strategic Projects team should retain all wind farm project applications until determination.

**Question 14: Do you agree with the provisions relating to joint plans?**

NIRIG considers it important that these provisions do not allow for delays in the adoption of plans.
Question 15: Do you agree with the provisions relating to the Department’s power in relation to joint LDPs?

NIRIG requests clarification regarding the situations in which the Department would instruct the Council to prepare joint plans and confirmation regarding “part of the council’s district”. We would have concerns that this could lead to a situation where a council has multiple LDPs.

Question 16: Do you agree with the transitional arrangements for a LDP. If not, can you identify amendments which would offer better arrangements?

NIRIG recommends that the plans adopted by the Department prior to 1st April 2015 continue to apply until the new plan prepared by the Council has been adopted. We request assurance that any application made before the adoption of the PS must be considered in relation to existing Strategy and existing Planning Policy. Any variation in this approach would require clear guidance on how Council plans are weighted throughout the process of consultation and soundness testing.

Clarification is sought in the scenario where draft PS documents are available for consultation and an application is made during the consultation process: how is this assessed or determined, especially where the DPD and existing policies conflict?

NIRIG is concerned that applications will not be decided upon until a council PS is finalised. We therefore believe that there must be a legislative imposed timeframe for determination of applications during the transitional arrangements.

SECTION 4: THE COUNCIL’S STATEMENT OF COMMUNITY INVOLVEMENT

Question 17: Do you agree with the proposed content of the SCI?

It is of paramount importance that the planning system works to the same systems, processes, quality and standards through Northern Ireland. There therefore needs to be a consistent approach among councils regarding the SCI. The Planning (Statement of Community Involvement) Regulations (NI) 2015 should ensure that this consistency is provided.

Question 18: Do you agree with the publicity, consultation and agreement requirement?

NIRIG requests consistent approaches among the various Councils regarding the SCI.

SECTION 6: A NEW HIERARCHY OF DEVELOPMENT
Question 19: Do you agree with the proposed classes and thresholds for major developments indicated in the Schedule at Annex C?

We agree in principal with the proposed division of applications into regionally significant, major and local.

NIRIG does not agree with the classification of wind farms <30MW as major proposals and strongly proposes that windfarm applications and associated grid infrastructure are considered as regionally significant projects. This is reflected by the regional Strategy Energy Framework and other energy strategy for Northern Ireland including, ‘Envisioning the Future, Considering Energy in Northern Ireland to 2050’, the Onshore Renewable Electricity Action Plan (OREAP), and the Sustainable Energy Action Plan 2012-2015 (SEAP).

Question 20: Do you agree with the definition for determining local developments?

NIRIG agrees with these proposals.

Question 21: Do you agree with the proposed classes and thresholds for regionally significant developments indicated in the Schedule at Annex C?

No.

NIRIG firmly disagrees with the proposed classes and thresholds for regionally significant developments indicated in the schedule in Annex C.

NIRIG urges that wind farm applications >5MW and associated grid are considered as regionally significant projects.

As proposed under the three-tier hierarchy only wind energy projects >30MW are proposed as regionally significant. We believe that all wind energy projects >5MW fall under the criteria for developments of regional significance as outlined in Section 6.11 as they have a critical contribution to make to the economic and social success of Northern Ireland as a whole or substantial part of the region. The criteria also include projects which have significant effects beyond Northern Ireland: wind energy has significant positive effects beyond Northern Ireland.

We reiterate our comments made in our consultation responses to “Reform of the Planning System in Northern Ireland: Your chance to influence change- Consultation Paper” (July 2009) and Local Government Reform Policy Proposals, Department response to Public Consultation Department of the Environment (July 2012).
By their very nature, wind energy developments are large scale infrastructure projects and are predominantly located in upland areas. As such, many windfarm applications will have effects at a larger than local scale, tending to fall along or close to district council boundaries, and be visible across council areas. The significance of wind energy development goes beyond a single district council area, both in terms of potential impacts and benefits. Due to these characteristics, NIRIG firmly believes it is essential that all wind farm applications should be classed as regionally significant applications.

We again seek confirmation as to the skills and experience that council officers will be required to demonstrate in order to be able to assess applications classified as major Developments. In the absence of demonstrable expertise in this area, we recommend that such projects be assessed by the Department where these specialised skills and experience have been built up over a number of years.

Wind energy developments also have the propensity to cross district council boundaries. Therefore consideration needs to be given to how these projects would be determined under the proposed threshold system.

Associated grid infrastructure should also be considered regionally significant. A number of sub-stations are associated with multiple wind farm projects. As a consequence, clusters of individual wind farms with a cumulative capacity of greater than 56MW will be reliant on a single cluster sub-station. Such infrastructure would by the current definition be regionally significant. However, for consistency of treatment NIRIG believes that all grid infrastructure associated with wind farms be considered regionally significant.

NIRIG is concerned that an anomalous situation arises relating to onshore works associated to development that, other than for the fact they are offshore rather than onshore, would be deemed as Major Developments prescribed for the purpose of Section 26(1) of the Planning Act (Northern Ireland) 2011 i.e. Regionally Significant Development. The development of an offshore generating station comprising both onshore and offshore elements will require applications under the Planning Act, the Marine and Coastal Access Act 2009 and the Electricity (Northern Ireland) Order 1992, all of which will be considered together under a memorandum of understanding between DoE and DETI for streamlining regionally significant applications. It is therefore necessary to ensure that all elements of the development are considered together and that the thresholds in Annex C cater for such situations.

NIRIG therefore proposes that Annex C (Schedule – Major Development Thresholds) is amended as follows:
1) After Generating Station in third column: “All onshore associated development of the construction or extension of a generating station (when constructed or extended) where its capacity is or more than 5 megawatts(*) and for which both an application to the Department of the Environment for a marine licence under Part 4 of the Marine and Coastal Access Act 2009 and an application to the Department of Enterprise, Trade and Investment for a consent under Article 39 of the Electricity (Northern Ireland) Order 1992 are necessary.”

(*) To reflect whatever figure is established for onshore generating stations.

2) Under Power Lines, column 3 is amended to read “The installation of a power line above ground or a cable below ground is of more than 110 kilovolts”

Paragraph 6.12 of the proposals for subordinate legislation states that:

“If a proposed development falls above the proposed threshold (see Annex C) then the prospective applicant must consult with the Department to establish if the Department considers the development to be regionally significant…”

NIRIG argues that applications that meet or surpass the threshold for regionally significant developments should automatically be treated as regionally significant applications to remove the uncertainty that this wording could generate.

Section 6.3 In relation to timeframes, there is a current commitment outlined in the Programme for Government which states that all large scale investment planning proposals should be decided within 6 months. This should be legislated for as part of this reform and responsibility given to the Department to impose these timeframes. Wind farms are large scale investments and the timeframe should therefore continue to apply.

SECTION 7: PRE-APPLICATION COMMUNITY CONSULTATION

NIRIG supports active early stakeholder engagement. We believe that the renewables sector may be considered a leader in good practice on community engagement in Northern Ireland. The renewables industry regularly engages in early and comprehensive pre-application consultation with communities. We support the principal of pre-application discussions (PAD), actively engaging with the Ministerial Forum sub-group on PAD and consistently advocating for appropriate processes that allow early discussion with key stakeholders without prejudicing outcomes.
NIRIG agrees that applicants for regionally significant and major developments should be required to demonstrate that they have undertaken consultation with the community prior to the submission of a planning application and note that this is already regular practice within the renewables industry.

NIRIG supports the principles of community consultation outlined in the 2011 Planning Act (NI) and we reiterated our support for these principles in our response to the 2013 Planning Bill. We believe that strategic planning guidance would be an appropriate method of outlining the minimum requirements for engagement with communities and this guidance should be consistent across district councils and prepared by the Department.

NIRIG published a Community Commitment protocol\(^2\) in early 2013, which states that the dialogue undertaken by stakeholders during and following the development of onshore wind energy projects should be inclusive, transparent, accessible and accountable. Building on this document we published a Community Engagement and Benefit Best Practice Guidance\(^3\) in June 2014. This document provides guidance regarding community engagement and demonstrates the considerable work done in this area by the renewables industry.

**Question 22: Do you agree with the proposed consultation, publicity and information requirements for pre-application community consultation?**

The Council’s role upon receipt of an application to submit (which outlines the applicant’s measures for community consultation and advertisement) is unclear. Is the applicant required to wait for a response from the council or wait until approval on the proposed consultation before it can commence with same? We would argue that there should be clear processes in place to allow developers to consult with communities without delay. For example, there should be a timeframe for turnaround for a response from the council regarding an application to submit.

**SECTION 8: PRE DETERMINATION HEARING**

NIRIG has concerns here regarding pre-determination of hearings, the current wording and proposed legislation proposals. As current proposals stand, they could result in a situation where each Council imposes different requirements. This is not acceptable. NIRIG suggests that the Department sets out guidelines and basic procedures which each Council must follow. Among other things, it may be of value to consult or provide guidance (in conjunction with industry) on the following:


Who attends pre determination hearings
Consistency among councils regarding predetermination hearing
Timeframe

SECTION 9: SCHEMES OF DELEGATION

Question 23: Do you agree that applications made by the council or an elected member and applications relating to land in which the council has an interest should not be delegated to an appointed officer?

NIRIG agrees with these proposals.

Question 24: Do you agree with the proposed approach to preparing and adopting a scheme of delegation?

NIRIG agrees with these proposals but also seeks a high degree of consistency between schemes of delegation.

SECTION 10: CALL IN OF CERTAIN APPLICATIONS TO THE DEPARTMENT

NIRIG agrees in principal with the call in procedure for certain applications to the department however the guidance for same should be open to consultation. We urge that clear and timely call-in procedures be proactively utilised by the Department if Councils make decisions that are inconsistent with the Regional Development Strategy and Strategic Energy Framework.

SECTION 11 NOTIFICATION DIRECTION-POTENTIAL CALL IN OF APPLICATIONS BY THE DEPARTMENT

Question 25: Do you agree with the proposed call-in criteria for a Notification Direction? Should any other classes of development be included and, if so, why?

NIRIG considers that there needs to additional clarification provided here regarding the time frame for a decision if such an application is called in by the Department.

We would also argue that wind farms which traverse council boundaries should in all instances be considered appropriate applications for call in by the Department.
When a decision is made to call in a project, clarification is required as to whether this would be considered a pre planning discussion.

SECTION 12: NEW DEVELOPMENT MANAGEMENT PROCEDURES

NIRIG welcomes the proposal to establish a time period within which a statutory consultee must meet its new duty to respond. This is critical to improving determination timeframes. Consideration also needs to be given to providing adequate resources within the statutory consultee departments.

NIRIG welcomes powers to make non material changes to existing grant of planning.

SECTION 13: REVISED PUBLICITY ARRANGEMENTS FOR PLANNING PERMISSION

Question 26: Do you agree that the current neighbour notification process should be made statutory?

NIRIG agrees in principal that the current neighbour notification process should be made statutory. However, consideration needs to given if an applicant is unable to provide notification to a neighbouring land and occupier following extensive land searches.

Question 27: Are you content with the proposed definitions of “neighbouring land” and “affected occupier”? If not, please suggest an alternative explaining what additional benefits this would bring by way of enhanced engagement in the planning system

We do not agree with the language used here. We propose replacing ‘affected occupier’ with an alternative term - “neighbouring occupier”. The use of the term ‘affected’ implies a negative impact which may not be the case.

NIRIG agrees with the proposed definitions of “neighbouring land” in principal. However, we have some concern that measures will need to be put in place for lands which are not registered and where the applicant is unable to notify affected occupiers.

Question 28: Do you believe that councils should be required to advertise all applications for planning permission in at least one newspaper circulating in the local area?

NIRIG agrees with this proposal.

SECTION 14-DUTY TO RESPOND TO CONSULTATION
NIRIG welcomes the timeframe in which statutory consultees needs to respond and consider that 21 days is appropriate, however consideration needs to be given to the resources and skills within the various affected departments to achieve this statutory obligation.

NIRIG requests that the wording on page 114 ‘(xi) involves energy generation which is likely to have a significant impact upon the environment’ is changed as not all energy generation are likely to have a significant impact upon the environment.

We consider the additional commentary in Section 14.14 unnecessary.

Section 14.15: We note that additional seasonal monitoring requirements for many ecological assessments as part of renewable energy applications may not be available at the time of a decision.

Question 29: Are the proposed lists of new statutory consultees set out in Annex D appropriate?

NIRIG considers these to be appropriate.

Question 30: Are the types of development or circumstances listed in the Schedule at Annex D sufficient? Can you suggest any additions or omissions along with the reasons for your suggestions?

NIRIG agrees with the types of developments listed in Schedule at Annex D.

Question 31: Do you believe that the proposed standard timeframe of 21 calendar days is appropriate in order to provide statutory consultees with enough time to make a substantive response?

NIRIG welcomes the measures proposed to improve the overall time frame in which applications are dealt with, and a statutory response time of 21 days is appropriate. However the various Departments will need to review the resources and skills in place to enable statutory consultees to meet these statutory obligations.

Question 32: Do you believe that the above definitions of a substantive response are satisfactory or do you have other suggestions that the Department could consider?
NIRIG agrees in general with the provided definitions of a substantive response, however statutory consultees should be provided the opportunity to request further information from an applicant and any such reasonable request should be considered a substantive response.

**Question 33: Do you consider that the proposed reporting requirements are appropriate or are there other requirements you believe would offer further benefits?**

NIRIG agrees with the proposed reporting requirements and would welcome governance of the consultation processes. In line with our comment above the number of additional information requests by statutory consultees issued should be also reported upon.

**SECTION 15 - DESIGN AND ACCESS STATEMENTS**

**Question 34: Do you agree with the application categories and types of applications which should, and should not, be accompanied by a Design and Access Statement.**

NIRIG members complete a design statement as part of the project proposal outlining what constraints would have been taken into consideration when designing and finalising a windfarm layout. NIRIG agrees with the application categories and types of applications that should, and should not, be accompanied by a Design and Access Statement.

NIRIG considers that content requirements for design and access statements should be standardised and provided for within a guidance document.

NIRIG express serious concern that planning consent may be refused purely on design. “Design” is to a large extent subjective and therefore hard to define precisely. For some forms of development, design is largely governed by function, as is the case for wind turbines whose design has evolved to maximise their efficiency in harvesting energy.

Planning decisions should take into consideration the three pillars of sustainability as promoted by the DOE: Social, Economic and Environmental.

**Question 35: Do you agree with the proposals in relation to form and content and the requirement to take environmental sustainability into account in relation to design principals and concepts?**

NIRIG agrees with these proposals. We would further note that a balance of social, economic and environmental factors is required to deliver appropriate planning policy and
decision-making. We recommend that there should be a presumption in favour of development that contributes to sustainable development. In particular, the long term social, environmental and economic benefits of renewable energy generation should be given due weight.

SECTION 16 - POWER TO MAKE NON-MATERIAL CHANGES TO EXISTING GRANTS OF PLANNING PERMISSION

Question 36: Do you agree with the proposals for handling applications for non-material changes to a previous planning permission?

We note some concern that the absence of a definition of ‘non-material’ could lead to an inconsistent approach among Councils. We also recommend that the Department ensures that the proposals do not lead to situations whereby judicial reviews could potentially be made years after permission for the change is granted.

We would request clarity on who is responsible for producing a standard application form and whether the application form referred to in Section 16.7 is a new application form.

NIRIG considers that this proposal however will not affect any permitted micro-siting allowances provided for by the grant of planning permission for individual wind farm projects.

SECTION 17 COUNCILS OWN APPLICATIONS FOR PLANNING PERMISSION

Question 37: Do you agree that councils’ own applications, in the circumstances outlined above, should be subject to notification to the Department for consideration?

NIRIG believes that it is inappropriate for any body to determine its own applications and these should be determined by the Department.
### PLANNING TIMEFRAME

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<td>Project passed to Council</td>
<td>Council declines to decide application on grounds of prematurity</td>
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<td>Council Statement of Community Involvement agreed between the council and the Department</td>
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<td>LDP timetable agreed between the council and the Department</td>
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<td>Preferred Options Paper Prepared, published and consulted on</td>
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<td>Plan Strategy produced, scrutinised and adopted</td>
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<td>Local Policies Plan Produced, scrutinised and adopted</td>
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<td>Project considered by the council - satisfied regarding consultation processes</td>
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<td>Decision made OR</td>
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<td>Council restarts consultation process</td>
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