



Northern Ireland  
Chamber of Commerce  
and Industry

# PLANNING IMPROVEMENT AND REFORM POSITION PAPER

JANUARY 2024

[WWW.NORTHERNIRELANDCHAMBER.COM](http://WWW.NORTHERNIRELANDCHAMBER.COM)

**Turley**

# Introduction

An aerial photograph of a modern city waterfront, likely Belfast, showing a bridge, a large building complex, and a harbor area with ships. The image is partially obscured by a dark blue overlay that contains the text.

**Planning plays a critical role in enabling development and construction and is a key facilitator of economic growth for the region. Certainty in planning performance and outcomes is critical to instil confidence in potential investors bringing forward sustainable developments.**

Northern Ireland Chamber of Commerce and Industry (NI Chamber) has become increasingly concerned with the performance of the Northern Ireland planning system and how it is delaying investment in the Northern Ireland economy, impacting on the delivery of housing, both private and for an increasingly acute affordable housing need, and perhaps most critically, affecting the transition to net zero.

The planning system plays a key role in meeting our renewable energy targets and the obligations of the Climate Change Act (Northern Ireland) 2022. Northern Ireland's Energy Strategy and the Climate Change Act set a renewable electricity consumption target of 80 per cent by 2030. Meeting this goal will require "more than doubling existing renewable generating capacity" in under 7 years, yet planning processes for regionally significant infrastructure, which deliver in excess of 30MW, have frequently surpassed this timeframe.

Planning is a complex area but many of the proposed improvements and solutions have already been proposed. We are simply restating and prioritising the actions that we believe will have the most positive impacts for the economy as a whole.

Following three significant reviews in Q1 2022 by DfI, NI Audit Office and the Public Accounts Committee, there is growing consensus across both government and business sectors of the need and steps required to deliver constructive improvement of the performance of the planning system.

This requires a blend of immediate actions, cultural and system improvements. Some will require additional financial resources, personnel and expertise across the whole system of local authorities, consultees and Departments.

Alongside resource, other improvements require changes to policies, regulations, and reform via new primary or secondary legislation, which will require the restoration and agreement of a new NI Executive. In the current absence of an NI Executive, the NI Chamber commissioned Turley to undertake a constructive review of the planning system in Northern Ireland, to understand what actions could be taken now and, in the future, to improve the current system, identify and prioritise the measures and mechanisms for bringing about meaningful change.

Whilst many of these improvements can be made with or without a NI Executive in place, the actions proposed in the Legislative Review and Planning Improvement Programme are not sufficient, and a restored Executive should prioritise a Northern Ireland Planning and Regeneration Bill in any new Programme for Government, alongside more minor changes to existing secondary legislation.

# Key Recommendations

The review has identified the following overarching priorities we consider need urgent attention from all stakeholders within the Executive and local government. They are summarised as 10 key recommendations as follows:



## Whole System Improvement

**FUND THE SYSTEM:** Ensure that the whole planning system is properly resourced, including the Department for Infrastructure (DfI), Councils, Statutory Consultees and the Planning Appeals Commission (PAC), introducing a transparent funding / resourcing mechanism to effectively incentivise performance of planning authorities and statutory consultees.

**POLITICAL ACCOUNTABILITY:** This requires a cross party commitment from an incoming Executive to prioritise planning improvement and reform across the whole system and an agreement to put in place robust political structures within the Northern Ireland Assembly to hold the system to account for rapid performance improvement, making best use of existing resources. We see no reason why a sub-standard planning system should continue to be accepted as the norm.



## Planning Appeals Commission

**REVIEW THE PAC:** The PAC should be subject to a short, sharp, independent review which considers its performance across its main workstreams to level it up with the other parts of the system which were reviewed in 2022, and identify its key priorities that fit with wider economic and environmental agendas.

**REFORM THE PAC:** As part of a subsequent, more strategic, review process, the Executive should consider both; the recasting of the PAC in a similar vein to that of the Planning Inspectorate in England with full operational independence but with a top-level accountability to a specific Executive Minister; and an alternative suitable sponsor Department for the PAC, such as the Department for Infrastructure, to better align its role and function within the wider Northern Ireland planning system.



## Development Management

**IMPROVE PROCESSING:** Provide legal certainty to enable planning authorities to proceed with determination, should statutory consultees not meet statutory deadlines, on the basis that there is deemed to be no objection from those consultees.

**INTRODUCE SANCTIONS:** Once the above measures are in place, introduce a system of potential sanctions for failure to meet deadlines by both planning authorities and consultees, providing that it improves the overall system and does not result in a reduction in resource or more bureaucracy.

**PRIORITISE RENEWABLES:** Provide mechanisms for the prioritisation and effective resourcing of projects at all stages of the process which will deliver for renewable energy and energy decarbonisation targets. Pilot approaches may be key to an effective roll out across other forms of development, but novel approaches are required to meet Climate Change obligations.



## Department for Infrastructure

**APPOINT INDEPENDENT COMMISSIONERS:** Promptly utilise the Department's (DfI) existing legislative powers to appoint "persons" to address the PAC's self-acknowledged current challenges with a) Regionally Significant Applications and b) the Independent Examination of LDPs.

**PROVIDE CLEAR GUIDANCE:** Provide a series of guidance frameworks for councils to ensure greater effectiveness and consistency in validation processes, PADs and delegated decision making.

**ACCOUNTABILITY FOR REGIONALLY SIGNIFICANT PROJECTS:** DfI should be equally accountable for meeting statutory targets for regionally significant applications, particularly in the area of renewable energy generation, transmission or storage.

# Purpose of Report

1. The Northern Ireland planning system was subject to significant change in 2015 following the introduction of the two-tier planning system. This was a result of the transfer of planning powers from central government to local councils on 1 April 2015. The system is intended to be “plan led” with Local Development Plans brought forward by each council for their area.
2. Since that time, the planning system has been the subject of critical reviews of its performance by the Northern Ireland Audit Office and the Public Accounts Committee in February and March 2022 respectively. These reports highlighted significant concerns with the operation of the system and oversight by DfI. Many of our members share these concerns as regular customers of the planning system but since then they have seen little or no meaningful change or improvements. Our members considered it important that a further analysis of the system was undertaken to identify ways of improving it at pace.
3. Our analysis has considered the reviews undertaken by the Department for Infrastructure (DfI) into the Implementation of the Planning Act (2022), the ‘John Irvine Report’ (2019) by DfI into statutory consultees and recommendations made by the Northern Ireland Audit Office (2022) and the Public Accounts Committee (2022), alongside member experience and expert advice.
4. The DfI review of the Planning Act did not seek to address the fundamental problems within the planning system or demonstrate any appetite to change the system. This was confirmed by the NIAO and Public Accounts Committee.
5. A key indicator of system performance is the published performance statistics. This analysis confirms that the average timescales across all councils for the determination of major planning applications is significantly longer than the statutory targets and is not delivering for the NI economy. There is no clear evidence that changes introduced by some individual councils to support performance have resulted in any tangible benefits. It is likely due to their limited control over the whole planning process. There needs to be a consistent approach to change across planning authorities, learning from process and system improvement that has demonstrably improved performance.
6. There is a high approval rate of planning applications, but for many applicants and their agents their experience as customers of the planning system is poor and the process is protracted. The determination timeframes in the DfI published statistics provide evidence to support the widespread concerns over delay. These figures inevitably become the negative headlines that erode public confidence and adversely affect the promotion of NI as a place to invest. The planning process is, to a large extent, completely open ended. The absence of certainty around timescales is a major disincentive for investment in Northern Ireland.
7. The culture of large parts of the planning system is one focused on problems rather than solutions to unlock potential and release investment. This culture, together with the architecture of the planning system adds to processing times. A more proactive and collaborative approach would support better performance within the current system design but there is clearly a need for system change to resolve some of the more intractable problems.
8. Our review of the local development plan process shows that it is not functioning as intended and that a number of councils have not brought forward a Plan Strategy as required by the Planning Act. The constant, unchecked, slippage against published timetables points to a lack of accountability at a strategic level. Experience to date suggests that the relationship between DfI, PAC and forward planning Councils could be streamlined to reduce timescales.
9. The Planning Appeals Commission (PAC) has not been part of any of the individual reviews of the planning system to date, yet it plays a key role in decision making and plan making processes. Efficient functioning of the PAC is critical not only in relation to the independent examination of Local Development Plans, on planning appeals - which offer access to justice, but also their hear and report function on Regionally Significant Applications.

10. Investment, particularly in renewables, will be lost without a clear and timely route through planning, including the PAC. The PAC has not met its self-set performance measures for several years but whilst DfI has oversight responsibility for the planning system, it has no influence on PAC performance. The PAC has acknowledged its own under performance but attributes this principally to a mismatch between resources and the demands placed upon it. Loss of senior resources is an issue, as is balanced prioritisation across the three main workstreams.

## ACTIONS

11. We have identified actions to be taken forward to the improve the following primary functions of the planning system:
- Development Management (determination of planning applications)
  - Local Development Plans (forward planning, necessary for a plan-led decision-making process); and
  - the Planning Appeals Commission.

12. The implementation of the recommendations considers how they could come forward; whether that be with additional resource, legislative change or whether they require the return of the NI Assembly.

13. Whilst there would clearly be significant benefits of the presence of a functioning Northern Ireland Executive and an Infrastructure Minister setting the direction for the planning system, many of our recommendations can be actioned now, but almost all require some level of additional resource that is unachievable without an anticipated return of the Northern Ireland Assembly and its Executive.

14. We are of the view that in the continuing absence of an Executive, DfI, consultees, and the councils must deliver as much meaningful change as the current legislative regime will allow, at pace.



# Development Management

## Timeframe

1 year  1 – 2 years  3+ years

Prioritise with resource	Legislative change	Return of NI Executive
Dfl to introduce guidance on the PAD process to establish principles for councils, including timeframes.	Dfl to have oversight powers in the pending legislation for validation checklists, with checklists to be limited to information required for statutory consultees.	NI Executive and Assembly must ensure a joined-up cross departmental approach that prioritises resource to the planning process (including all consultees) from all government stakeholders.
Councils to provide guidance on their individual PAD process.	Remove the existing requirement for a pre-determination hearing to be held by a planning authority when an application is referred to Dfl, but not subsequently 'called-in'.	
Councils to critically review their individual 'scheme of delegation' to support prioritisation of major planning applications, economic development and renewable energy projects.	Introduction of mandatory timeframes for the determination of planning applications through a change in primary legislation.	
Dfl to publish guidance on 'call-in' procedure.	Through a change in primary legislation, significantly reduce the statutory pre-application community consultation period, but strengthen guidance on "meaningful engagement" and increase the range of consultation methods to ensure a more effective and transparent consultation process for all parties.	

Prioritise with resource	Legislative change	Return of NI Executive
Formation of multi-stakeholder regional planning forum to reflect needs of the customer and key sectors such as renewable electricity, private and social housing construction etc.	Introduce deemed consent for discharge of conditions when timeframes are not met through a change in secondary legislation.	
DfI to identify, urgently, an effective funding mechanism for statutory consultees linked to improved performance.	Introduction of deemed approval from consultees who fail to meet statutory response times, with DfI governance oversight.	
Introduce a system of potential sanctions for failure to meet deadlines by both planning authorities and consultees, providing that it improves the overall system and does not result in a reduction in resource or increased bureaucracy.		
DfI to introduce statutory PAD process on regionally significant applications.		
Introduction of Planning Performance Agreements to for major/regionally significant applications to support a revised PAD process.		

# Development Plan

## Timeframe

1 year



1 - 2 years



3+ years



### Prioritise with resource

DfI to exercise their powers under the Planning Act to appoint persons to undertake Independent Examinations.

Dedicated resource must be directed in councils to bring forward the remaining draft PS with the Department using their reserve powers, as necessary.

Relevant government departments engaged to provide necessary resources to support the local development plan process.

### Legislative change

Introduce statutory timeframes for the delivery of local development plans for all those involved (Council's, DfI & PAC).



# Planning Appeals Commission

## Timeframe

1 year ■ 1 - 2 years ■ 3+ years ■

Prioritise with resource	Legislative change	Return of NI Executive
A short, sharp, independent review of the performance of the PAC to level it up with other parts of the system which were reviewed in 2022.	The Executive should consider legislation to recast the PAC in a similar vein to that of the Planning Inspectorate in England with full operational independence but with a top-level accountability to a specific Executive Minister.	Whilst retaining its independence from any government department, the performance of the PAC should be subject to an urgent short sharp review.
A review of existing resources to ensure priority delivery on regionally significant and major planning applications.	Consideration should be given to an alternative sponsor Department for the PAC, such as the Department for Infrastructure, to align its role and function more with the Northern Ireland Planning System.	A wider review should consider the PACs current role and governance (being cognisant of the fact that the PAC in its current form exists as a result of the centralisation of planning powers in 1973) taking into account changes to its current governance and functions in light of the decentralising changes in the planning regime since 2015.
Exercise power to appoint panel commissioners to reduce timescales for decision making and reporting.		Establish a fast-track process for regionally significant planning applications and major renewable applications.
Facilitate legislative powers to appoint independent 'person/s' to undertake public inquiries and hearings into regionally significant and called in applications.		
Review of complaints mechanisms to ensure fairness for service users.		

# Annex 1 - Reviews of the Planning System

The planning system was subject to public scrutiny by both the Northern Ireland Audit Office and the Public Accounts Committee in 2022. This followed the DfI's delayed review of the Implementation of the Planning Act. DfI had also previously commissioned its own review on the role of statutory consultees within the NI planning process - the 'John Irvine Report'. We first look at the findings of each report.

As a result of the Northern Ireland Audit Office and the Public Accounts Committee reviews, DfI has undertaken a joint improvement programme with councils which was published in September 2022.

## John Irvine Report (September 2019)

The 'John Irvine Report' examined how NICS Departments take forward their responsibilities as statutory consultees within the planning process in Northern Ireland, the extent to which they are meeting response targets and issues around consultation processes, capacity and capability.

The findings were published in a paper entitled 'A discussion paper examining the role of statutory consultees in the planning process in Northern Ireland' by the Department for Infrastructure (DfI) in September 2019,

The report had four key findings:

- The need to focus on the value of planning in relation to the delivery of local and regional outcomes, how planning should go beyond delivering sustainable development and become an enabler of economic, societal, and environmental well-being.

- The need for review of resourcing and responsibilities of statutory consultees in the planning process. This includes reviewing current practice, workloads associated with the role of statutory consultees, as well as determining the need for additional resources to ensure efficient and timely responses to planning consultations.
- The efficiency and effectiveness of the planning system in relation to the quality of planning applications.
- The Department's role in providing oversight and strong leadership to bring key stakeholders together, including the establishment of a cross-government Planning Forum to drive continuous improvement in both planning processes and the system itself.

## DfI Review of the Implementation of the Planning Act (NI) 2011 (January 2022)

The Department is required to review, monitor and report on the implementation of the Act. This report identified parts of the planning system that could be improved along with recommendations for changes to parts of the Act, subordinate legislation and guidance aimed at improving the planning system.

Key recommendations coming out of this review include:

- reviewing the consultation requirements in plan-making.
- improving the quality of planning applications submitted,

- increasing the use of digital technology in the planning system, and
- reviewing the categories of development, Departmental directions, and the Department's approach to call in notifications.

The Department set out various actions to take forward, including:

- adding/amending development plan guidance as required by the review of current processes following adoption of a number of LDPs,
- reviewing the statutory list of consultees in plan-making to determine whether it remains relevant/appropriate to local planning authorities,
- reviewing existing thresholds and categories of development to determine the need for revisions,
- bringing forward proposals to introduce statutory 'validation checklists' and seeking to advance policy development at the earliest opportunity,
- considering the legislative requirements around statutory consultations including timeframes for consultations responses, and
- undertaking a general review of current departmental directions.

The report concludes that the stated objectives of the implementation of the Planning Act have been achieved. However, it recognises that the planning system has not achieved the level of performance anticipated. The report notes that there are various contributing factors to this, stating that measures to address such factors are outside the scope of the review.

## **Northern Ireland Audit Office (NIAO) – Planning in Northern Ireland (February 2022)**

The NIAO study reviewed how effectively the planning system was operating and being governed. It involved a detailed analysis of available data covering the performance of the planning system in a variety of areas and engaged with stakeholders both inside and outside the system.

NIAO found that despite the importance of the planning system to Northern Ireland, it is not operating effectively, not always providing the certainty that those involved want, and in many aspects not delivering for the economy, communities or the environment.

The report considered four broad areas:

- Performance from 2015 across the three main functions of plan making, decision making and enforcement.
- How decisions are made within councils.
- How the Department exercises its functions within the Planning Act.
- Wider strategic issues that are having a significant impact on effectiveness.

From this review they identified 12 recommendations which are summarised as follows:

- Review of LDP timetables and potential for streamlining LDP process.
- Enhanced focus on performance with fundamental analysis of reasons for delay.
- Review of enforcement case outcomes.
- Consistency in levels of delegated decisions.
- Oversight in decision overturn rates.
- Full transparency around decision making in planning committees.
- Review of previous decisions by planning committees.
- Compulsory training for members of planning committee.
- Ensure the planning system is financially sustainable.
- Role of Department in improvement of planning system.
- Assessment of skills and experience gaps in the planning system.
- Clarification on appropriateness of ammonia thresholds for planning decisions.

## **Public Accounts Committee (March 2022)**

The Public Accounts Committee (the Committee) met on four separate occasions to consider the NI Audit Office report into “Planning in Northern Ireland”.

The Committee sees the planning system acting as a key economic driver for NI with a crucial role in leveraging investment, protecting the environment and delivering places that people want to live and work in. It was critical of the performance and function of the planning system.

The Committee did not see the planning system in NI as working as it should and identified several opportunities to make immediate improvements that should be acted upon now for short term benefit.

The Committee was also critical of the Local Development Plan process to enable the planning system to be ‘plan led’.

The Committee identified that the Department had got the balance wrong when it came to exercising its powers of oversight of the planning system and that it could no longer afford to take a minimal approach.

The Committee called for a fundamental cultural change in the way local and central government interact around planning. It also called for a more inclusive planning forum that included representation from developers and communities.

## Planning Improvement Joint Work Programme (September 2023)

Since those reviews, Dfl has engaged in a further process to identify actions, in conjunction with councils, in response to the issues raised by NIAO and the Committee. It has published its joint programme for planning improvement work setting out actions and responsibilities for Dfl and Council on each.

We have included a summary table of the recommendations included across the Dfl Review of the Planning Act, the NIAO report, the Committee report and the Planning Improvement Programme.

Table 1 compares the actions identified in Dfl's legislative review, alongside the recommendations identified in the above reviews, and the subsequent actions proposed by the Joint Work Programme.

Table 2 compares the 34 proposals for change of which Dfl were either "not persuaded" or placed "under review", and again compares these to the recommendations of the various reviews, and highlights which actions Dfl have subsequently introduced within the Planning Improvement Programme.

Recommendations from Dfl's Review of Implementation of Planning Act (January 2022)	Action Taken? (Y / N)
Add/amend development plan guidance following adoption of a number of LDPs	N
Undertake review of the statutory list of consultees	Y
Work with Councils to enhance online / digital means of communication in plan-making and development management to improve accessibility for citizens	N
Review existing threshold and categories of development	N
Bring forward proposals to provide for in-person and online PACC public engagement.	N
Review the policy approach in terms of clarifying call-in criteria	N
Bring forward proposals to introduce statutory 'validation check-lists' and seek policy development at earliest opportunity	N
Explore legislative requirements around statutory consultations including timeframes	N
Bring forward proposals to make Pre-Determination Hearings discretionary for Councils	N
Bring forward proposals to supplement existing s.59 provisions	N
Undertake a general review of current departmental directions	N
Review 'Commencement of Development' provision	N
Review requirements around TPOs and consider the need for guidance	N
Minister to consider options on action with regards to Review of Old Mineral Permissions (ROMPs)	N
Explore possibility of applying Fixed Penalty Notices (FPNs) to advertisement control	N
Undertake review of planning fees	N

Table 1

Planning Improvement Action Plan (June 2023)	NI Audit Office Report (Feb 2022)	Public Accounts Committee Report (March 2022)	NI Chamber Recommendations
✓	✓	✓	✓
✓	✓	✓	✗
✓	✗	✗	✗
✓	✓	✓	✗
✓	✗	✗	✗
✓	✗	✗	✓
✓	✓	✓	✓
✓	✓	✓	✓
✓	✗	✗	✗
✗	✗	✗	✗
✓	✓	✓	✗
✗	✗	✗	✗
✗	✗	✗	✗
✗	✗	✗	✗
✗	✗	✗	✗
✓	✓	✓	✓

Consideration of Proposal for Change (not brought forward in DfI's Recommendations in Jan 2022)	Department Response / Proposed Action	Planning Improvement Action Plan (June 2023)	NI Audit Office Report (Feb 2022)	Public Accounts Committee Report (March 2022)	NI Chamber Recommendations
Matters for the Department to take account of in the exercise of its functions	The Department will continue to keep under review other strategies/ policy/guidance to determine their relevance in the formulation and co-ordination of planning policy and is not persuaded of the need to amend legislation.	✗	✗	✗	✗
The two stage approach to LDP preparation	The Department will, in conjunction with councils and key stakeholders, monitor and review current processes following adoption of a number of LDPs.	✓	✓	✓	✓
Matters to take account of in furthering sustainable development, and preparation of LDPs	The Department is not persuaded of the need to amend legislation on matters to take account of in the preparation of LDPs.	✗	✓	✗	✓
Approach to LDP Timetabling	The Department is not persuaded of the need to amend current LDP timetabling requirements at this time. The Department will however consider this issue as part of a wider review of LDP processes.	✓	✓	✓	✓
Pre-Application Discussions (PADs)	The Department is not persuaded of the case for, or benefits of moving PADs to a legislative footing. However, the Planning Forum will continue to review the regional approach to PADs to improve effectiveness and efficiency.	✗	✗	✗	✗

Table 2

Consideration of Proposal for Change (not brought forward in DfI's Recommendations in Jan 2022)	Department Response / Proposed Action	Planning Improvement Action Plan (June 2023)	NI Audit Office Report (Feb 2022)	Public Accounts Committee Report (March 2022)	NI Chamber Recommendations
Call-In Applications	The Department will review the policy approach in terms of clarifying call-in criteria and will seek to improve the efficiency of the process going forward.	✓	✗	✓	✓
Advertisement / Notification of Applications	The Department will undertake a review of the publicity and advertisement requirements associated with planning applications to determine whether there are ways to enhance online / digital means of communication. This will include consideration of recommendations to emerge from the work of the Planning Engagement Partnership.	✗	✗	✗	✗
Determination of applications	The Department is not persuaded of the need to disallow the introduction of new information or pause, or amend a development proposal during the processing of an application. These matters could be significantly addressed with the front-loading of information accompanying planning applications via the introduction of validation check-lists and the issue could be revisited after that.	✗	✗	✗	✗
Statutory timeframes for determining applications	The Department is not persuaded of the need to amend existing provisions but will monitor and keep this issue under review.	✗	✗	✗	✓

Consideration of Proposal for Change (not brought forward in DfI's Recommendations in Jan 2022)	Department Response / Proposed Action	Planning Improvement Action Plan (June 2023)	NI Audit Office Report (Feb 2022)	Public Accounts Committee Report (March 2022)	NI Chamber Recommendations
Duration of Planning Permission	The Department is not persuaded of the need to amend existing provisions but will monitor and keep this issue under review.	✗	✗	✗	✗
Notices of Opinion	The Department is not persuaded of the need to amend existing provisions with regard to notices of opinion or making the Commission or other independent body responsible for RSD applications but will monitor and keep the issue under review.	✗	✗	✗	✗
Retrospective Permissions	The Department will consider introducing multiple fees for retrospective applications as part of a wider review of planning fees. The Department is not persuaded of the need to amend current provisions with regard to retrospective planning permission.	✗	✗	✗	✗
Third Party Right of Appeal	The Department is not persuaded of the need to amend current provisions/ appeals but will continue to keep this matter under review. This will include consideration of recommendations to emerge from the work of the Planning Engagement Partnership with regard to planning.	✗	✗	✓	✗
Non / Minor-material change	The Department is not persuaded of the need to amend current provisions with regard to non-material or, minor-material amendments, but will continue to keep these matters under review.	✗	✗	✗	✗

Table 2 (cont)



Consideration of Proposal for Change (not brought forward in DfI's Recommendations in Jan 2022)	Department Response / Proposed Action	Planning Improvement Action Plan (June 2023)	NI Audit Office Report (Feb 2022)	Public Accounts Committee Report (March 2022)	NI Chamber Recommendations
Permitted Development	The Department will continue to keep permitted development rights under review and will bring forward amendments to extant PD provisions as and when appropriate in line with Ministerial priorities and Departmental resources.	✗	✗	✗	✗
Planning Agreements	The Department is not persuaded of the need to amend existing provisions but will continue to engage with Councils on practice through the normal mechanisms.	✗	✗	✗	✗
Temporary Listing / Building Preservation Notice (BPN)	As these functions are the responsibility of another department, DfI will continue to liaise with DfC on these matters.	✗	✗	✗	✗
Conservation Areas (CA)	Given these functions are the responsibility of another department, DfI will continue to liaise with DfC on these matters. The Department intends to review the Conservation Area consent notification requirements.	✗	✗	✗	✗
Relevant authority for Enforcement	The Department is not persuaded of the need to change the approaches to planning enforcement but will keep these matters under review.	✗	✗	✓	✗

Consideration of Proposal for Change (not brought forward in DfI's Recommendations in Jan 2022)	Department Response / Proposed Action	Planning Improvement Action Plan (June 2023)	NI Audit Office Report (Feb 2022)	Public Accounts Committee Report (March 2022)	NI Chamber Recommendations
Unadopted Roads / Private Streets Determinations (PSD)	The Department is not persuaded of the need to amend existing provisions however, it will continue to explore ways of improving the PSD aspect of the process.	✗	✗	✗	✗
Liability as to Compensation	The Department is not persuaded of the need to change the approaches to compensation.	✗	✗	✗	✗
Exercise of powers (in relation to the assessment of a Council's performance)	The Department is not persuaded of the need to change the approaches to the assessment of a council's performance, but will keep this matter under review in the exercise of its functions	✗	✗	✓	✗
Correction of Errors	The Department proposes to make a minor amendment at an appropriate legislatively opportunity to remove this anomaly and subsequently commence Part 12.	✗	✗	✗	✗
Duty to respond to consultation	In conjunction with the recommendation above, the Department will keep under review any consequential changes to this duty.	✓	✗	✗	✓
Planning Register	The Department is not persuaded of the need to amend these provisions.	✗	✗	✗	✗
Resources/Training	The issue of resources and training for consultees and others, is out-with the scope of this review. Councils are responsible for resourcing, training and operational performance. Furthermore, the PAC is resourced through the Department of Justice.	✓	✓	✓	✓

Table 2 (cont)

Consideration of Proposal for Change (not brought forward in DfI's Recommendations in Jan 2022)	Department Response / Proposed Action	Planning Improvement Action Plan (June 2023)	NI Audit Office Report (Feb 2022)	Public Accounts Committee Report (March 2022)	NI Chamber Recommendations
Review extant planning policy	The Department is of the view that this matter is out-with the scope of this review. The Department will, in the exercise of its functions, continue to keep extant planning policy under review.	✓	✗	✗	✗
Measurement of Planning Performance	The Department will keep this matter under review.	✓	✓	✓	✗
Infrastructure Commission / Independent Planning Body or Regulator	While such matters are out-with the scope of this review, the Department are pleased that an Infrastructure Commission will be established.	✓	✗	✓	✗
Belfast Metropolitan Area Plan (BMAP) Status	Such matters are out-with the scope of this review.	✗	✗	✗	✗
New Strategic Infrastructure Order	This matter is out-with the scope of this review.	✗	✗	✗	✗
Planning Judicial Reviews	This matter is out-with the scope of this review.	✗	✗	✗	✗
Planning Processing Agreements (PPA)	The Department will keep under review.	✗	✗	✗	✗
Consistency between terrestrial planning and Marine Planning regimes	The Department is not persuaded of the need to amend the Planning Act in this way.	✗	✗	✗	✗
Retrofit / Reuse of existing buildings	The reuse and retrofitting of existing buildings as opposed to new builds, falls outside the scope of this review.	✗	✗	✗	✗

# Annex 2 - Development Management

The development management process primarily involves the determination of planning applications which are in three main development categories: local, major and regionally significant. The two-tier planning system introduced statutory targets for the determination of local and major planning applications set at 15 and 30 weeks respectively.

The performance of all planning authorities (DfI and Councils) is monitored by DfI which publishes quarterly and annual statistics on how long it takes to determine planning applications relative to the statutory targets.

The determination times for councils are provided on an both individual and collective basis against local and major planning applications. They also monitor the performance of DfI who determine regionally significant applications and called-in applications. Whilst the DfI has, to an extent, been impacted during the period since 2015 by a lack of an Assembly and Ministers, this has not affected council decision making.

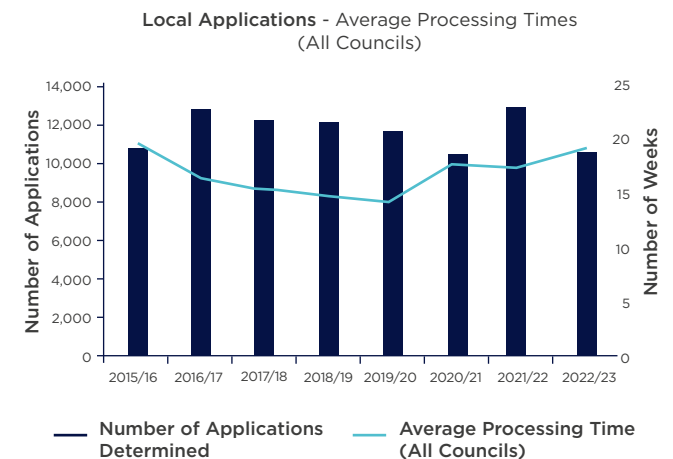
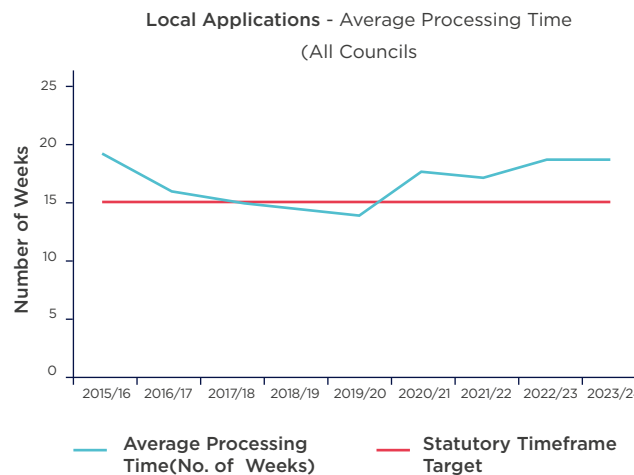
The performance of planning authorities was heavily criticised in the NIAO and PAC reviews.

DfI has released the 8th set of annual planning statistics since the transfer of planning powers. It is useful to analyse the performance of councils over this period before considering ways that improvements could be made.

However, it is difficult and would be ill-advised, to draw firm conclusions on 'best' or 'worst' performing councils based only on processing times, as to do so would fail to take account of the volume, complexity and/or quality of applications each council faces at the relevant points in time.

## Local Applications

In 2015/16 - the first year of operation of the reformed planning system - the average processing time for local applications across all councils was 19.4 weeks. The latest figures for the year 2023/24 to date shows an average processing time of 18.9 weeks across all councils. There has been little change in these headline figures but there is greater variance when looking at the Councils individually.



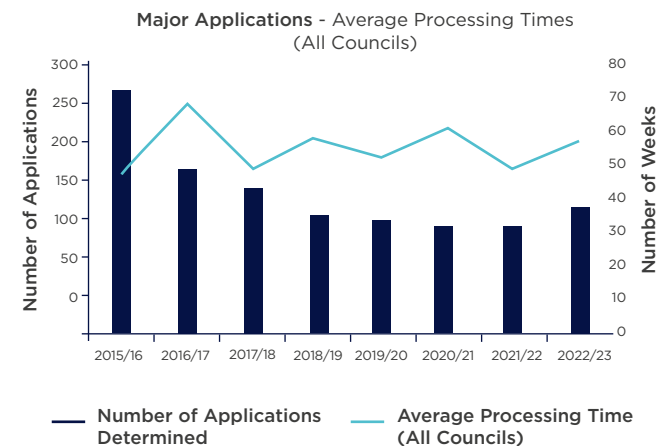
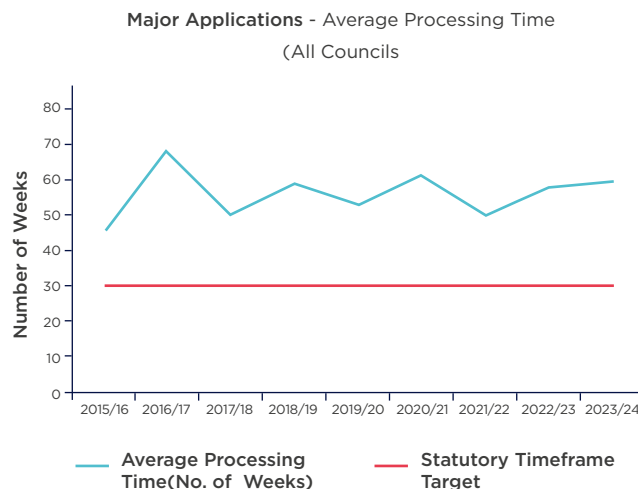
<b>Local Applications - 2015/16</b>	
<b>Council</b>	<b>Average Processing Times (weeks)</b>
<b>Quickest Processing Times</b>	
Antrim and Newtownabbey Borough Council	14
Fermanagh and Omagh District Council	14.4
Mid and East Antrim Borough Council	14.4
<b>Slowest Processing Times</b>	
Ards and North Down Borough Council	21.2
Armagh City, Banbridge and Craigavon Borough Council	22
Newry, Mourne and Down District Council	34.6

<b>Local Applications - 2022/23</b>	
<b>Council</b>	<b>Average Processing Times (weeks)</b>
<b>Quickest Processing Times</b>	
Mid and East Antrim Borough Council	8.6
Fermanagh and Omagh District Council	13
Antrim and Newtownabbey Borough Council	13.4
<b>Slowest Processing Times</b>	
Newry, Mourne and Down District Council	21.6
Mid Ulster District Council	21.6
Lisburn and Castlereagh City Council	32.7

Looking at the more recent 2023/24 YTD figures, the shortest processing times were experienced in Antrim and Newtownabbey (13.4 weeks), Ards and North Down (15 weeks) and Mid and East Antrim (10.6 weeks). The longest processing times for local applications were in Causeway Coast & Glens Borough Council (28.6 weeks), Lisburn City and Castlereagh Council (38 weeks) and Newry, Mourne & Down District Council planning (28.6 weeks).

## Major Applications

In 2015/16, the average processing time for major applications was 46.2 weeks across all councils. The most recent statistics for 2023/24 (Q1) show the average processing time for major applications is 59.6 weeks across all councils. This is a dramatic increase in comparison to 2015/16, almost double the statutory target of 30 weeks.



Major Applications - 2015/16	
Council	Average Processing Times (weeks)
<b>Quickest Processing Times</b>	
Antrim and Newtownabbey Borough Council	28.2
Mid and East Antrim Borough Council	36.8
Causeway Coast and Glens Borough Council	39.6
<b>Slowest Processing Times</b>	
Belfast City Council	54.4
Newry, Mourne and Down District Council	56.4
Fermanagh and Omagh District Council	70

<b>Major Applications – 2022/23</b>	
<b>Council</b>	<b>Average Processing Times (weeks)</b>
<b>Quickest Processing Times</b>	
Causeway Coast and Glens Borough Council	46.4
Armagh City, Banbridge and Craigavon Borough Council	47
Mid and East Antrim Borough Council	47.6
<b>Slowest Processing Times</b>	
Lisburn and Castlereagh City Council	87.2
Newry, Mourne and Down District Council	89
Ards and North Down Borough Council	104.5

The performance on Major applications in 2023/24 year to date shows a slight increase in overall average processing times compared to the average processing time of 57.8 weeks recorded in the last annual release.

## Regionally Significant Applications

Analysing processing times for regionally significant applications from year to year is challenging as the statistics depend on the number of regionally significant applications received and/or decided in that year.

For example, in 2015/16, there were no regionally significant applications decided by the Department. The most recent statistics for 2023/24 (Q1) also do not show any regionally significant applications having been submitted.

DfI deal with the more complex planning applications but also the more critical applications in terms of infrastructure and renewable energy projects.

There has been a substantial increase in processing times for RS applications in recent years. The absence of an Infrastructure Minister for a significant period across this time will have added uncertainty for decision making however it would not have meant that the core functions of the process could not continue.

In 2022/23, the average processing time for a regionally significant planning application was 362 weeks. The equivalent in 2020/21 was 240.4 weeks, which was up since 2019/20 where the average processing time was 167.6 weeks. These figures are dramatically different from the figures of 2017/18 and 2016/17, where average processing times were 22.6 and 41.6 weeks respectively. This may have been due to the uncertainty created by the lack of a Minister.

This inconsistency in processing time is of pressing concern to the renewables sector. Of the 13 regionally significant applications received since 2015, eight were for wind farms, two for solar farms and one proposal for a compressed air energy storage facility.

Northern Ireland's Energy Strategy and the Climate Change (Northern Ireland) Act 2022, set a renewable electricity consumption target of 80 per cent by 2030. Meeting this goal will require a “more than doubling existing renewable generating capacity” in under 6 years, yet the statistics highlight that the processing of many planning applications for regionally significant infrastructure, which deliver in excess of 30Mw, have frequently surpassed this timeframe.

All but three of the Regionally significant applications in Northern Ireland submitted since 2015 have been renewable energy applications, but the number of applications has been dropping.

There have been reporting years when no regionally significant applications were received or decided by the Department.

Regionally Significant Applications				
Year	Received	Application Reference	Applications Determined	Average Processing Time (weeks)
2015/16	6	Wind farm - Doraville (LA10/2015/0292/F) Wind farm - Gruggandoo (P/2015/0218/F) Wind farm - Corlacky (LA09/2016/0232/F) Solar farm - Kells (LA03/2015/0234/F) Solar farm - Antrim (LA03/2015/0262/F) Compressed Air Energy Storage - Islandmagee (LA02/2016/0006/F)	0	
2016/17	2	Gas to the west - (LA08/2016/1328/F) Cruise ship terminal - Belfast Harbour (LA04/2016/0421/F)	1	41.6
2017/18	2	Wind farm - Carnalbanagh (LA02/2017/0594/F) Valuable minerals mine - Dalradian (LA10/2017/1249/F)	1	22.6
2018/19	0		0	-
2019/20	0		2	167.6
2020/21	1	Wind farm - Ballygilbert (LA02/2020/0458/F)	3	240.4
2021/22	1	Wind farm - Unshinagh (LA02/2021/1205/F)	0	-
2022/23	1	Wind farm - Carnbuck (SPD/2023/0951/F)	1	362.0

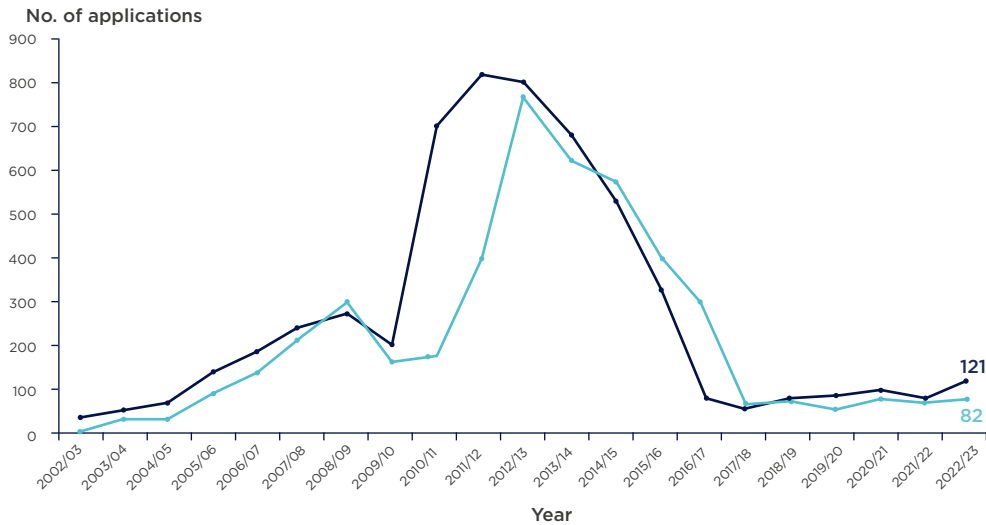
\* All applications received may not have had a decision issued within the same time period and applications decided may not have been received in the same time period.

\* - No decisions/withdrawals made in that year.



## Renewables Applications

The number of renewable energy applications received annually in Northern Ireland peaked in 2011/12 at 820.



High levels at this time were driven by the NI Executive’s former targets for electricity consumption from renewable sources, with a target of 20% to be achieved by 2015, and 40% by 2020. At this peak 60% of “major” planning applications were decided in 37 weeks (the target was 23 weeks).

Since then, the number of applications has reduced dramatically. Since the transfer of planning functions in 2015/16, the number of renewable applications received each year has hovered around the 100 mark, with a slight rise in 2021/22, and more recently in the beginning of the financial year 2023/24, 24 renewable energy applications were received in Q1 2023/24; down from the previous quarter (36) but similar to the same period the previous year (23). Nineteen renewable energy applications were decided during Q1 2023/24; this compares to 19 in the same period last year.

DfI acknowledges this in their annual planning performance statistics, and attributes it to a reduction in government funding available, and a lack of capacity on the power grid to allow for new connections.

However, it is silent on the fact that despite a reduction in applications received, processing times across the planning system have risen, and last year (2022/23) took an average 51.4 weeks to determine:

## Determination times for renewable energy applications

	Single wind turbine	Wind farm	Hydro electricity	Solar panel	Biomass/ Anaerobic digester	Other <sup>6</sup>	All applications
<b>2022/23</b>	55.4	82.2	172.6	20.2	48.0	10.9	51.4
<b>2021/22</b>	42.6	93.1	91.8	43.2	63.6	x	43.8
<b>2020/21</b>	47.3	191.0	x	16.6	98.4	33.8	47.5
<b>2019/20</b>	23.8	160.9	370.4	13.8	67.9	14.8	33.6
<b>2018/19</b>	40.4	144.1	131.4	60.1	43.2	5.8	46.6
<b>2017/18</b>	99.6	128.2	85.9	20.4	34.0	57.4	94.4
<b>2016/17</b>	68.6	119.9	68.2	21.7	32.9	26.8	62.2
<b>2015/16</b>	52.2	112.2	44.2	20.5	54.2	41.4	49.4

## System Experience

It has been clear for some time that performance on major planning applications has not been close to meeting the statutory targets and the criticisms by the public review bodies has had little effect. System improvements to date have led to limited to no improvement outside of the processing times of local applications. Rather than utilising the hierarchy of development to prioritise resources towards major and regionally significant planning applications, previous system improvement measures have yet to deliver any significant improvement in major application processing times. Consistent under performance has not resulted in any meaningful action by DfI despite powers being available under the Planning Act to review a council's performance.

### Performance

We consider that DfI should initiate a review that seeks to introduce performance penalties for major and regionally significant applications. Similar to the measures announced by the UK government, an approach that seeks to refund application fees in a graduated way based on how far past the statutory targets an application has gone. The Planning Bill in Ireland is also strengthening performance measures with statutory, mandatory timeframes being introduced along with fines and Ministerial reviews.

A penalty measure will ultimately involve changes to primary legislation however we believe potential sanctions need to be considered to improve timeframes for determination. This of course requires proper resourcing of the system, but in such a situation, failure to meet statutory deadlines could result in claw back of applicant fees or penalties applied to the planning authority or consultee. Such sanctions should be considered, provided they can be demonstrated to improve the overall system and do not result in a reduction in resource or a increased bureaucracy. The proper context for such a review would be within a strategic review of the funding of the whole system.

A trial of this process could be undertaken with a selected council for some major applications, or a sample of regionally significant applications with DfI, to evaluate the effectiveness of a penalty or other sanction system. The penalty process would enable closer engagement between planning authority and applicant to keep performance levels on course. This process will also require obligations on the part of the applicant for it to function properly.

Due to the planning authorities reliance on statutory consultees for the technical expertise for planning applications, a review should also be undertaken on the mechanism for funding consultees through the planning process. The intention of a consultee funding mechanism would be to ensure their performance improvement.

### Pre-Application Discussions

Pre-application discussions or PAD are used by councils and DfI with varying priority and resource but they are generally low priority and under resourced. Some councils have introduced charging for PADs. From the headline statistics it is difficult to see where the performance benefit is being realised other than to conclude that if they were having benefit, the processing times would only be worse. They are non-statutory with no defined timeframes or performance measurement.

Positive customer experience demonstrates that, at their best, PADs can provide tangible benefits to processing times if administered with purpose and with appropriate resources. There is, therefore, a need for the Department, in its leadership role, to establish principles that individual councils can adapt for their own PAD process.

This would include agreeing deliverables with the applicant (with the prospective applicant being able to establish what it seeks to achieve from the process), introducing a timebound process that both parties enter in to, to allow the Council or Department to formally close each PAD in writing. We consider that a more clearly defined PAD process could also support the introduction of a statutory PAD to support regionally significant planning applications.

The introduction of planning performance agreements for major and regionally significant applications should also be implemented more widely and effectively. This would support the work achieved during a PAD process and brings obligations on both the part of the applicant and the planning authority to maintain the momentum during an application process. This could be trialled through selected councils and through regionally significant applications with DfI.

### **Scheme of Delegation**

Councils and the Department need to critically review their individual scheme of delegation to ensure they are proportionate in ensuring that committee decision making is only required for those decisions that ought to be taken at committee level. The Department should also consider the need for a more consistent approach across council areas on application types that go before committee to ensure the overall coherence of the system by issuing specific guidance on the issue.

The monthly committee cycle places a significant time requirement on planning officers taking account of time to have reports completed, presentations and briefing to members ahead of the meeting. This increases determination times for those individual applications, taking priority away from decision making on delegated applications where decisions can be made. Potentially reducing the number of applications which are reported to committee for determination would free up officer time and deliver performance improvements.

Outside of Belfast City Council, a large number of applications for single dwellings are brought before planning committees. Whilst this may be locally important, the system must strive to focus on those applications that need a more appropriate amount of time and resource. From a planning fee perspective, the fee for a single dwelling is not weighted towards the time input required for a committee decision. In line with planning fee structures, prioritisation should be given to major applications.

### **Validation Checklists**

Some councils have introduced individual measures to enhance the system such as validation checklists which are (currently) a non-statutory way of improving the quality of applications. Belfast was the first to implement this, taking the view that the NI planning system does not have a legislative framework to deal with poor quality applications, i.e. to allow applications without sufficient information at point of submission to be returned as incomplete or invalid.

It is not yet obvious what benefits the checklist has brought to determination times in Belfast City Council from looking at the statistics. This may become clearer in due course after the effect of the newly adopted LDP Plan Strategy, which links to the checklist, is better understood. The approach requires the support of statutory and other consultees to bring tangible benefit. The role of consultees in the planning system is addressed later in this report.

With the adopted Plan Strategy, Belfast City Council's checklist now includes 46 potential items that could be required to accompany a planning application. If applied uncritically by officers, this puts an onus on an applicant to provide information that would, in many instances, be readily available within a planning application package and could be interpreted by officers. Information may also be required to address planning policy and this can often already be addressed in a planning statement without the need for standalone reports. Departmental agreement is, therefore, necessary for the introduction of validation checklist through legislation.

DfI has held a consultation on making validation checklists a legislative requirement. We understand that Ministerial approval is not required to progress this but it will require secondary legislation. A matter that needs resolved is the dispute mechanism and who will adjudicate on that. DfI has been exploring this with the Planning Appeals Commission and Department for Justice. Whatever is decided, the dispute mechanism needs to be run expeditiously otherwise an application could be left in limbo.

In the meantime, DfI has encouraged councils to proceed to devise their own administrative lists. Whilst we recognise the benefit that would come about from improved quality of planning applications, we would urge caution with a rigid, tick box approach and one that doesn't have a legislative framework. There needs to be consistency of approach across all councils and a need for Departmental oversight and specific guidance issued to councils from DfI.

As an improvement mechanism in isolation, it is unlikely to be successful. The statistics don't show performance improving significantly as a result of any checklists currently in place.

Whilst we support the principle of improving the quality of planning applications, the remedy needs to be proportionate and should focus on necessary information to support the statutory consultee's role.

### **Pre-Determination Hearings & Condition Discharges**

Linked to statutory consultees is the notification process to DfI on major applications. This requires DfI to consider whether it should 'call in' an application. The legislation gives DfI 28 days to decide. Rarely has this been met in practice and beyond that there is no long stop date. There is also minimal advice on the relevant matters being considered by the Department. Uncertainty around this process causes uncertainty, frustration and delay.

On the back of a notification to DfI, pre-determination hearings are required when DfI does not call in an application. This puts the application back through the determination process loop again and includes a pre-determination hearing. This is unnecessary. It causes delay and adds little to the process because the council has already resolved its position at the committee stage.

Consultees also have a role to play in the discharge of planning conditions, often to facilitate the commencement of development. This is a critical step in any process and delays in the ability to commence development can have significant knock on effects for delivery.

There is a charge in other jurisdictions for discharging conditions and that would provide monetary return for the councils. However, the process needs to be time bound. Currently there are no implications for not meeting the current 8-week decision timeframe set within legislation. This could be changed to a 'deemed consent' process if the 8 weeks is not met.

### **Pre-Application Community Consultation**

We consider that the required statutory period of pre-application community consultation before the submission of Major planning applications can be reduced. Whilst we are fully supportive of the statutory consultation process, our experience is that it can be undertaken in a meaningful way over a shorter period, as opposed to the current 12 weeks.

This would enable major applications to enter the system quicker and support an overall reduction in the time taken to deliver development on major planning applications. The COVID pandemic demonstrated how the pre application community consultation process can function with digital and remote methods of consultation widening reach and participation in the process and was a welcome change to deal with extreme circumstances at that time. Continuing to employ such methods and making provision for that in revised Departmental guidance could support a meaningful reduction in the statutory pre application period.

### **Interim Regional Planning Commission**

DfI has set up an Interim Regional Planning Commission. NI Chamber sits on the Commission, however, there remains a concern across members that it does not include those who engage with the planning system on a daily basis. That is critical for understanding the 'front end' customer experience and directly accessing the expertise of those with direct exposure.

Even with an oversight role, DfI cannot fully appreciate how the system functions for the customer without reconsidering the membership of the Commission. A new Commission should be established with a clear remit for improvement and reform, and reflecting a wider diversity of the development sector, alongside existing representation from environmental and community sectors.

## Role of consultees

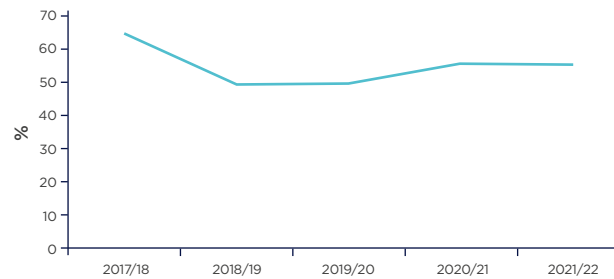
The development management process is dependent on the technical expertise of statutory consultees to support planning authorities in decision making. Statutory consultees are defined under the Planning (General Development Procedure) Order (NI) 2015 and they sit within government departments, outside the control of councils.

The legislation allows consultees 21 days to return a substantive response on an application, or an alternative agreed timeframe with the council. Consultees are monitored for their performance.

The overall performance of the planning system is intrinsically linked to the response times of consultees but planning authorities generally have a limited ability to control the delivery of timely responses. In broad terms, if all consultee responses are closed out then an application can be determined by the planning authority. There are, however, issues with over or re-consultation. Relatively few planning authorities have the confidence to progress to a decision without fulsome consultation.

Since the 'John Irvine Report' in 2019, the Department has monitored the performance of statutory consultees in the planning process. The first 'Annual Report' 2019/20 demonstrated approximately 70% of all statutory consultations received for local planning applications were responded to within 21-day target or extended target. This was down from the 73% recorded in 2018/19 and 77% in 2017/18. For major applications, only 51% of responses were on target in 2019/20 and 2018/19, down from 65% recorded for 2017/18.

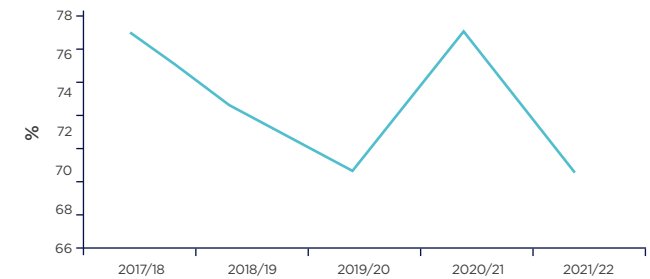
**Major Applications - % of Statutory Consultations responded to within 21-day target or extended target**



In looking at statutory consultation response times, 69% of statutory consultations in 2021/22 were responded to on time (within the 21 day target or the agreed extended target).

Within this, 70% of responses were on time for local applications (2021/22). This was down compared to the previous year (2020/21) with 77% of responses issued on time. In relation to major applications, in 2021/22, only 56% of responses were issued on time, with figures in previous years being broadly similar (57% in 2020/21 and 51% in 2019/20) demonstrating no improvement.

**Local Applications - % of Statutory Consultations responded to within 21-day target or extended target**



In terms of timescales for responses from individual statutory consultees, DAERA only responded to 38% of consultations on time, DfI Rivers only responded to 40% of consultations on time. On the other hand, NI Water responded to 86% of consultations on time and HSENI responded to 92% of consultations on time. On local applications 2021/22, DfI Rivers only responded to 40% of consultations on time. All other consultees performed relatively well in terms of response times.

Resource and priority to planning within the Executive departments that host statutory consultees is a barrier to response times. Whilst it may require the direction of a Minister to set the priority, there should already be sufficient encouragement to resource and prioritise the planning process where statutory targets exist. The system needs to function through all its constituent parts and responsibility is required at senior levels to support that. DfI need to show leadership if it wants to see system improvement.

A significant problem with tracking consultees has been the inability to know which consultees had been consulted through the new Planning Portal. This has only recently been rectified, almost a year after the new Portal was introduced. It is inexplicable how a feature of the previous, functioning planning portal was not available on day one of the new system. There are still issues that impact on performance because of the new Planning Portal, visibility of uploaded information or difficulty navigating the system. This impacts on the ability of consultees to respond promptly and fully.

In addition to statutory consultees, councils also have a series of internal consultees. This is largely ad-hoc and it isn't clear from the Planning Portal when they are engaged for advice. Consultations should be limited to those that are necessary to support decision making in accordance with planning policy. Unnecessary and excessive consultation brings delay and makes decision making more complex.

Greater control and clarity is required to ensure consultees provide advice grounded in planning policy/legislation. The system can often be burdened with consultees seeking to achieve outcomes that are based upon their own legislative framework and not planning. This causes further delay and abortive work. This requires strong leadership from councils and those responsible within government for the statutory consultees to ensure that the responses to planning are focused on planning matters.

Consultees can often be consulted unnecessarily. This clogs the system when the exercise of professional judgement by the planning officer would normally suffice.

# Annex 3 - Local Development Plans

In a plan-led system, the basis for planning decisions is the Local Development Plan (LDP). The LDP was a key tenet of the two-tier planning system. Councils have statutory responsibility for bringing forward a development plan for their area. To support councils, the Department introduced the Strategic Planning Policy Statement for NI (SPPS) in September 2015 which identified important planning matters that should be addressed in the preparation of a LDP.

LDPs guide the future use of land in their respective areas and inform developers, members of the general public, communities, government, public bodies, representative organisations and other interests of the policy framework that is used to determine development proposals. The SPPS states that ‘an efficient and effective plan-led system provides confidence and certainty.’ They allocate appropriate land for differing types of land use and set out the main planning requirements to be met in respect of ‘zoned’ sites. They are a fundamental tool in the implementation of central government policies and strategic objectives.

The LDP comprises two parts:

- Plan Strategy (PS) – this sets the council’s objectives in relation to the development and use of land in its district and its strategic policies for the implementation of those objectives.
- Local Policies Plan (LPP) – is prepared after the PS has been adopted and sets the council’s local policies, consistent with the PS. This stage will zone sites, set individual development requirements and designate areas for protection.

The SPPS set out an indicative timeframe of 40 months for the adoption of a full development plan (both the PS and LPP). Each stage is subject to Independent Examination by the Planning Appeals Commission or person appointed by the Department. The Department has oversight powers under the Planning Act for the plan making process, including the ability to intervene in a plan making process of a council.

## Progress

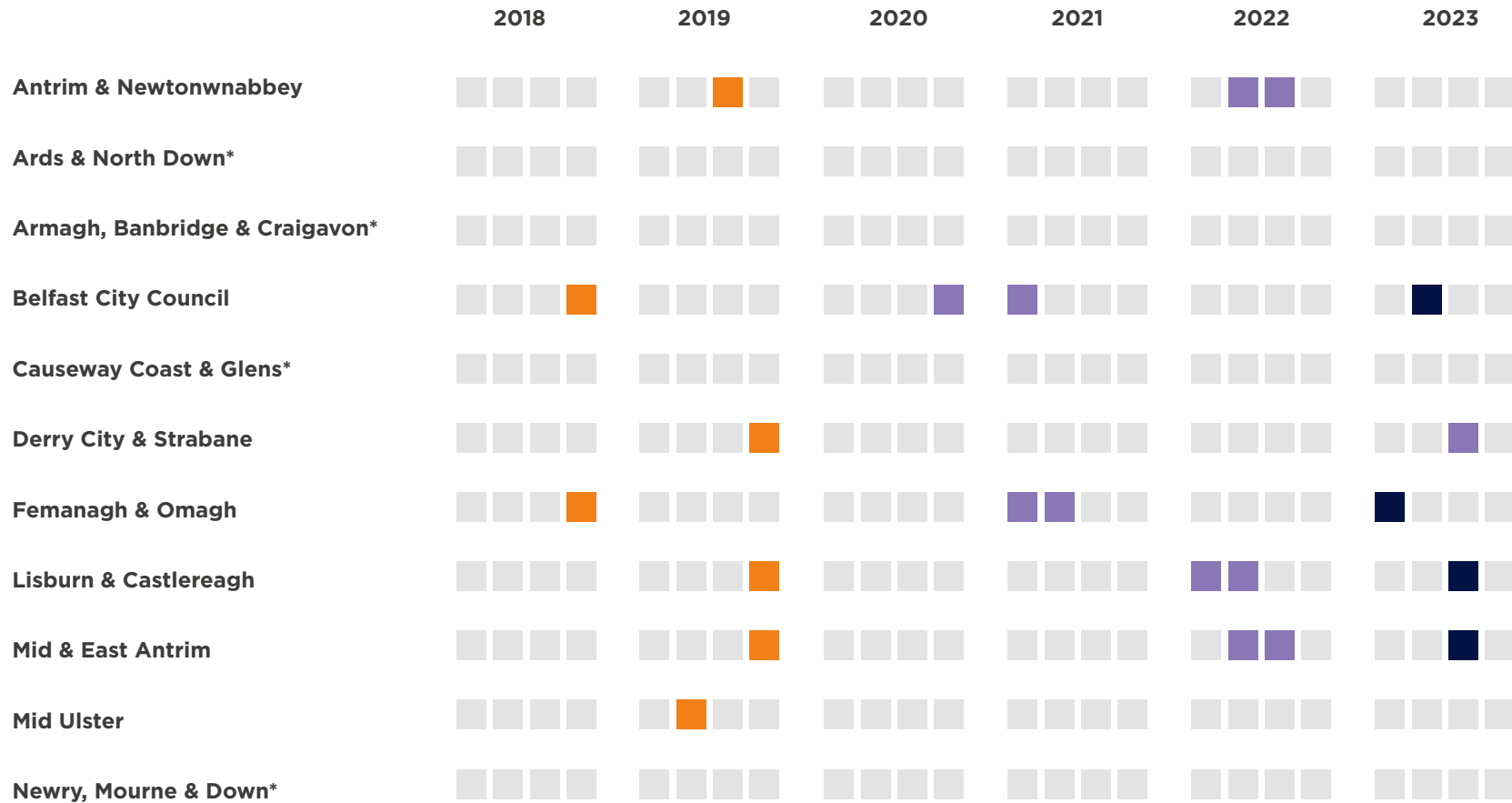
2023 has been the year of the Plan Strategy but it took almost 8 years to arrive. Fermanagh and Omagh District Council were the first council to adopt in March 2023. Belfast City Council followed in May 2023 with Lisburn City and Castlereagh Council in September 2023 and Mid & East Antrim Borough Council in October 2023.

Derry City and Strabane District Council completed their Independent Examination into their PS in October 2023 and the Planning Appeals Commission returned its report on the Independent Examination for the Antrim & Newtownabbey Borough Council PS in September 2023. This is now with the Department for review and its PS could be adopted in the first half of 2024.

Except for Mid Ulster District Council, the other four councils are yet to release a PS for public consultation. The reasons for this are unclear but it is unacceptable eight years into the new regime. The new LDP system was meant to deliver faster, more streamlined development plans to support the planning system. Four councils have now adopted their plan strategy, 8 years on. The table below provides a timeline for all council areas and their performance in the plan making process to date.



# Local Development Plan Progress



\*dPS not published

■ Draft Plan Strategy    
 ■ Independent Examination    
 ■ Adopted Plan Strategy

Completing the plan making process means adoption of the LPP. Until that happens, we are left with a hybrid system that must consider existing, often dated, departmental development plans. Full plan coverage is essential to realise the plan-led system.

We have reviewed the current position of the remaining councils in relation to their release of a plan strategy. A council must prepare and keep under review a timetable for the preparation and adoption of its local development plan. Some councils are not meeting that obligation. Full plan coverage, following the completion of 22 Independent Full Examinations is many years away.

Council	Last timetable	Original publication date	Timetables published	Notes
Armagh City, Banbridge and Craigavon Borough Council	2017	Timetable estimate Q2/3 2018/19	1	It is understood ABC are currently drafting a revised timetable.
Ards & North Down Borough Council	2021	Timetable estimate Q2 2022/23	2	Currently preparing a revised LDP timetable for publication.
Causeway Coast & Glens Borough Council	2021	Timetable estimate Q3 2022	2	Understand that the council is currently drafting a revised timetable.
Newry Mourne & Down District Council	2023	Timetable estimate Q2 2024/25	2	Recent timetable anticipates publication of dPS in Q2 2024/2025.
Mid Ulster District Council	2020	Timetable estimate Q2/3 2019/20	2	MU council have published their dPS - with DfI; awaiting IE.

Initial impressions following the adoption of the PS is that councils have been ill prepared for their release. There is significant uncertainty from councils around the requirement of new policy in practical terms – a disconnect between plan making and development management. It is hoped that this is only short term as it is creating uncertainty with decision making and we expect this will begin to show in the determination timeframes in due course.

Dfl was criticised for its role in the plan making process by the Committee. In response it said it was too early to draw conclusions on the process, presumably because at that time there were no adopted plans (this was in 2022). The same cannot be said now that four plans are adopted and a further two IEs are complete. We are almost at the halfway point of the first stage of plan making.

The Dfl approach is to consult on as yet unknown legislative change in 2024. It also proposes to provide more guidance. It will likely be into 2025 before anything is introduced. These approaches are not going to change what is a critical position now for a key part of the system that is not functioning. Fundamental measures need to be considered to effect change.

As for those councils that are yet to release a PS, the Department needs to exercise its powers under the Planning Act and intervene.

The LDP system cannot be allowed to grind to a halt. There needs to be an immediate review of the plan making process. The passage of time provides an opportunity to improve the process for those councils which are still to produce a PS and to enhance the LPP process.

# Annex 4 - Planning Appeals Commission

## Background

The Commission is a statutory independent appellate body originally established in 1973 when planning powers were centralised in Northern Ireland and subsequently maintained by The Planning Act (NI) 2011 despite the primary remit of that legislation being to decentralise planning powers from 2015. The PAC has a key role to play in a functioning planning system given it deals with a wide range of land use planning and related matters across Northern Ireland. The work of the PAC can often engage a high level of public interest. As a tribunal it operates on the basis of openness, fairness and impartiality.

The Commission is therefore not part of any Government Department. It receives financial and administrative support from its sponsor body, the Northern Ireland Courts and Tribunal Services (NICTS). The Commission operates wholly independently of the NICTS in terms of its decision making and recommendations it makes to other government departments.

The Commission's remit covers some 90 functions under various pieces of Northern Ireland legislation. The Commission's work broadly fall into two areas:

- Decisions on Appeals (hear and decide) – against Council and other Departmental decisions on a wide range of planning, roads, water and environmental issues.

- Hearing and Reporting on Public Inquiries/ Hearings/Examinations (hear and report) – the Commission will report and make recommendations on a wide range of cases referred to it by government Departments or arising from decisions of Departments. The final decision on these matters is taken by the relevant Department (or minister).

Commission decisions are final and, once they are issued, they cannot be amended, withdrawn or substituted by a new decision. However, decisions made by the Commission are open to challenge by way of judicial review to the High Court.

The 'hear and report' area of work primarily relates to regionally significant and called in applications by DfI. It also relates to the independent examination of local development plans (LDPs) for the 11 Councils in Northern Ireland. In both instances the DfI make the referrals to the Commission.

The Planning Act (NI) 2011 provides that the Commission shall consist of a Chief Commissioner, Deputy Chief Commissioner and a number of other Commissioners. The Chief Commissioner is therefore the leader of a group of tribunal members and is the most senior source of professional expertise in the Commission.

The Chief Commissioner is accountable for the efficient and effective discharge of the functions of the Commission, including setting objectives and performance measures and achieving targets; and the operational, administrative and financial management of the organisation.

The Commission is made up of Commissioners who are appointed by the Department of Justice (DoJ). There is currently a complement of 20 Full Time Equivalent (FTE) Commissioners (with two vacancies) within PAC.

The Chief Commissioner has a statutory function to appoint Commission members to hear appeals and conduct public inquiries, hearings and independent examinations. The Chief Commissioner can also appoint specialist assessors to sit with and advise the appointed Commissioners; and appoint a panel of commissioners or single commissioner to take decisions or make reports. Accordingly, the Chief Commissioner has the discretion to allocate work as they deem appropriate.

## Performance Measures

The Commission Corporate Plan 2021 -2024 is publicly available on the web site [www.pacni.gov.uk](http://www.pacni.gov.uk). Annex A of this document sets out the identified priorities for the Commission. For ease of reference these are as follow:

**Priority: Customer First - Objective 1:** To deliver a high quality service that meets the needs of customers.

**Priority: Operating Environment - Objective 2:** To deliver an operating environment that will support an expanding workforce.

**Priority: Adapting Information Technology to facilitate new ways of working - Objective 3:** To implement effective solutions to ensure our systems are fit for purpose.

Annex B of the Corporate Plan 2021 - 2024 goes further to publicly state the performance measures for the Commission. These have been set to ensure they remain challenging, measurable and focused on the priorities of the users of the service.

The stated performance standards are summarised in the table below:

Work Type	Stated Target
Hear and Decide	<p>To decide 80% of appeals* within specified periods as follows:</p> <ul style="list-style-type: none"> <li>• informal hearings within 30 weeks.</li> <li>• written representations with an accompanied site visit within 28 weeks.</li> <li>• written representations within 26 weeks; and</li> <li>• enforcement related appeals within 34 weeks.</li> </ul> <p><i>*excluding delays caused by the appellant and developments involving Environmental Impact Assessment</i></p>
Hear and Report Major Casework	To deliver 100% of all reports on Hear and Report cases to the Department by the indicative date announced at the end of the public proceedings.
Local Development Plans	To deliver 100% of all reports to the Department by the indicative date announced at the end of the Independent Examination public proceedings.
Quality	To ensure the number of appeal decisions giving rise to a justified complaint or a successful judicial review challenge in the current and previous year amounts to no more than 1.5% of the total number of appeal decisions issued in that two-year period.

Reviewing the performance deliverables of the last financial year 2022-2023 the following can be observed.

## Hear and Decide

The Annual Report notes that the Commission has delivered on a commitment to increase the number of appeal decisions compared to 2021/2022 (142 decisions). The Commission received 268 appeal and decided 189 decisions. In this year some 30 appeals received were withdrawn and a further 8 found to be invalid.

The Annual Report acknowledges the delivery of decisions has not been at a level to address the business volume. In summary, the report explains this is due to a number of factors mainly linked to the Covid Pandemic, impact of the IT implementation and work force vacancies.

Appeals subject of a hearing take some 65 weeks to complete. Appeals subject of written representations take some 59 weeks. This means on average appellants are waiting over 12 months to receive an appeal decision, even when it relates to an appeal where an appellant has opted for the theoretically fast-tracked option of a written representation appeal. These timescales are excessive and go significantly beyond the performance target publicly stated by the Commission in its Business Plan. This delay results in access to justice denied to individual appellants and also has an impact on the delivery of planning decisions that has knock on impact on the economy, the environment and society across Northern Ireland.

The PAC Annual Report states that it will aim to improve on the 2022/2023 timelines for hear and decide cases. There has been an ongoing trend of underperformance for the past number of years where the public performance measures are not being met. There is no explanation or indication as to what measures or actions will be put in place to improve performance.

## Hear and Report Casework

In the previous financial year the Commission reported to the referring authority in relation to eight cases. It is also noted that the Public Inquiry report to the A5 Western Transport Corridor Road Scheme was released to the Department on 1 November 2023. This is an example of the significant public interest that delivery of work by the Commission has on the economy, environment and society in Northern Ireland.

A table of the live major case requests is published on the Commissions website. The table indicates numerous long standing referred cases. The main reason attributed to the delay appears be available resources.

Whist the Commission provide a specific target for the delivery of a report there appears to be no target for taking action once a referral from a Department is made. This means that there is no business priority, responsibility or accountability for the Chief Commissioner to allocate the cases of regionally significant development for Northern Ireland as effectively and efficiently as possible. Prospective applicants have no certainty of the timescales involved in their planning processes, which acts as a deterrent to investment as the process is essentially open ended.

## Local Development Plan Independent Examination (IE)

As noted above five Local Development Independent examinations were referred to the Commission in the previous financial year (2021/2022). Three reports were delivered within the expected time frames. One report missed it's timescale and work has commenced on another referred IE.

The Annual Report notes the IE programme to date has been successful but there will be a significant impact on future programming arising from resourcing issues with the Commission. This must mean, going forward, that the success and momentum of the IE programme to date will not continue as anticipated by the 11 Councils. This action will result in significant delays to the delivery of full plan coverage and the implementation of plan led decision making in Northern Ireland.

## **Resources**

It is evident from the Commission web site that there are currently two Commissioner vacancies at present. Over the past two years a number of experienced Commissioners have left the Commission to take up employment elsewhere or have retired. New Commissioners will be expected to get up to speed quickly to address backlogs.

## **Complaints & Reviews**

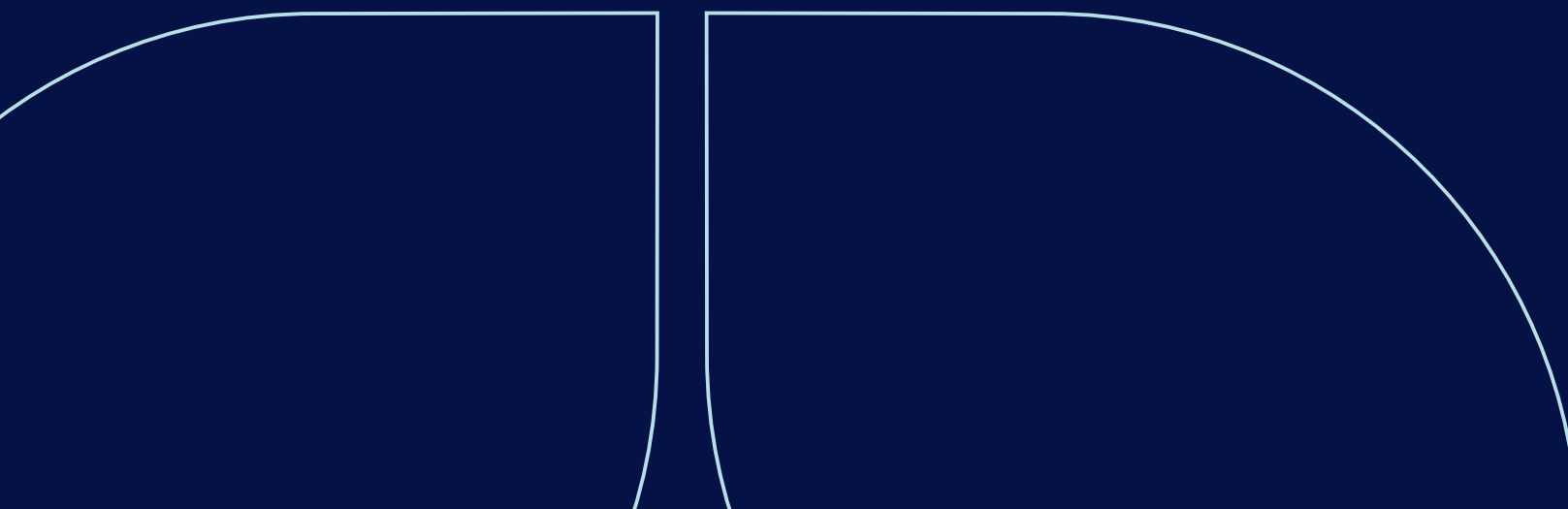
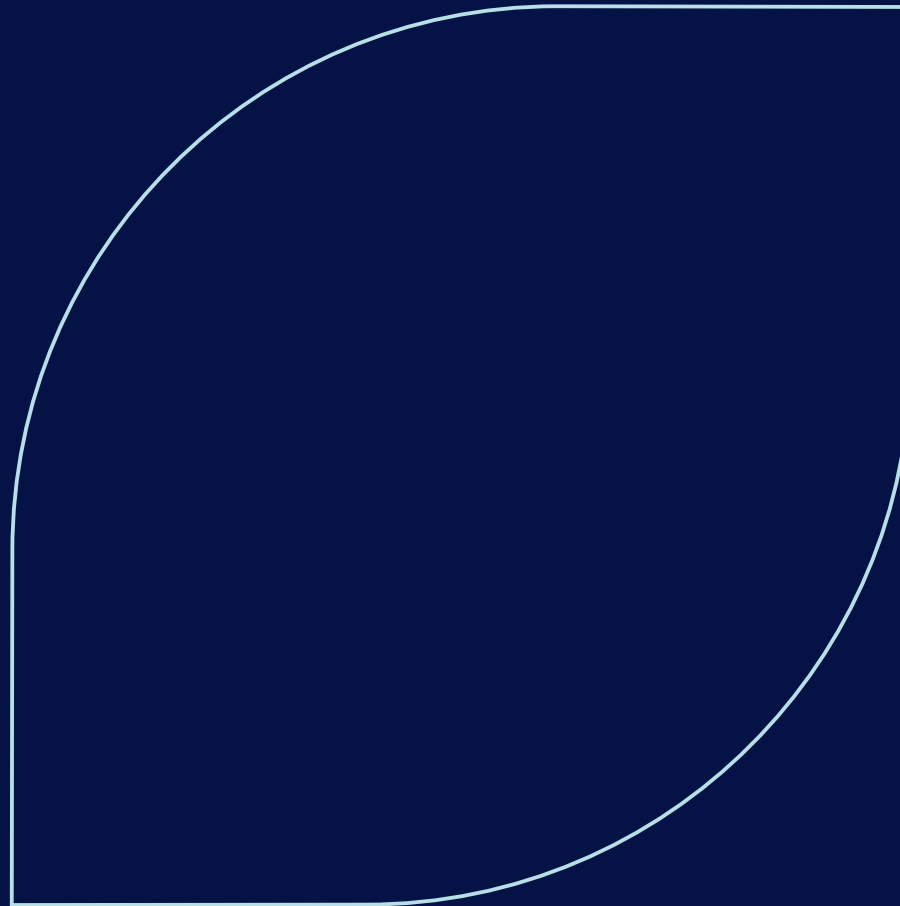
The Commission offers a complaints mechanism. However, this relates to how an appeal or inquiry has been handled. There is no mechanism in place to raise questions about allocation or prioritisation or how the workload of the Commission is discharged, delivered or managed.

## **Performance**

The Chief Commissioner appears to have no meaningful accountability to any overarching authority or regulatory body. The performance of the Commission did not form part of the reviews of the planning system that reported in 2022. Given the critical role the PAC plays within the planning system as a whole and its acknowledged under performance against self set targets, an immediate independent performance review would be timely, followed by a more strategic review of its role given the changes in decentralisation of decision making since 2015.



Northern Ireland  
Chamber of Commerce  
and Industry



**Turley**