Building the Capacity of the Planning System to deliver Public Interest in Northern Ireland –

A Scoping Paper

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Contents

Key Messages

A planning system's key function is to ensure that development does not damage public interests. These interests are not only economic but also environmental and social and can conflict with each other. Therefore definitions of 'public interest' are always being contested. At the same time, planning systems also seek to increase public benefit from the development process. Major debates exist around achieving fair, equitable processes and optimising outcomes: what decision-making structures, frameworks and resources can best deliver for local communities and/or the region as a whole?

Recent reviews of planning systems in the UK and the Republic of Ireland have revealed major public concerns about their capacity to meet public needs and expectations. Despite the implementation of important reforms aimed at improving the accountability and local responsiveness of the system in Northern Ireland, a survey of stakeholders carried out by the authors of this report indicates that it shares key challenges, including:

- Low levels of trust in the planning system to deliver in the public interest

- Ineffective engagement with key community and environmental interest

- Lack of transparency and accountability in decision-making processes

- The need for a broad range of environmental and social issues to be far better addressed by planning, including climate change and the provision of accessible green space.

In responding to these challenges, key considerations will be:

- The incorporation of a strengthened framework of rights for citizens and community-based organisations into planning and environmental legislation: rights to information; rights to participate and rights to challenge in development decision-making.

- The integration of community-led plans (e.g. 'place plans') into the development planning process. This includes support and recognition for community

planning processes and clear links with the production and role of local development plans.

- More effective and accountable delivery of the well-being needs of local residents in planning decisions, including access to green space, play space, safe mobility, local services and affordable housing.

- A closer link between planning and environmental protection and responses to climate change.

- Enhanced training and support for local decision-makers at both the local authority and community level.

- Strengthened checks and balances that ensure transparency and build public trust.

- A clear monitoring and review structure for the planning system, based on explicit rights, goals and reporting (see e.g. national planning performance coordinator (Scotland) and planning regulator (Republic of Ireland)).

Addressing these challenges will require, above all, political leadership, in both Stormont and local authorities, that highlights the significant role that the planning system, harnessing the energies of all stakeholders, is expected to play in the future development of Northern Ireland and its communities.

Introduction

Overview

This paper aims to scope out priorities for improving the delivery of public interest through spatial planning legislation, policy-making and implementation in Northern Ireland. It reviews the current debates about how planning can best deliver public interest and, in particular, the rights and responsibilities of communities and citizens in achieving a development system that is both just and effective in its processes and outcomes. It demonstrates the range of ways in which these issues are being raised and addressed across the UK and Ireland, as a result of major reviews, such as the Raynsford Review of planning in England. It presents analysis of the results of a recent survey of stakeholders in planning in Northern Ireland, which identifies not only weaknesses and challenges in delivering the public interest but also opportunities for the improvement of the Northern Irish planning system's capacity to meet urgent social, economic and environmental challenges. Finally it draws together a number of recommendations to meet these challenges.

The role of spatial planning systems in delivering public interest

Spatial planning has developed from a predominantly regulatory concept of land use planning to encompass recognition of the significance of the planning process in making high quality places. The Planning Act (NI) 2011 therefore requires the Department of Infrastructure and local planning authorities to plan the development of land "with the objective of furthering sustainable development and promoting or improving well-being" (Article 1). In this context, the interdependence of human and ecosystem health and well-being, and how this plays out in the development of our settlements and use of resources (Figure 1), is becoming increasingly apparent, not least from the current experience of the COVID-19 pandemic (LGA, 2010; Public Health England, 2017; Lowe et al, 2018; Carmichael et al, 2019; Scott, 2020).
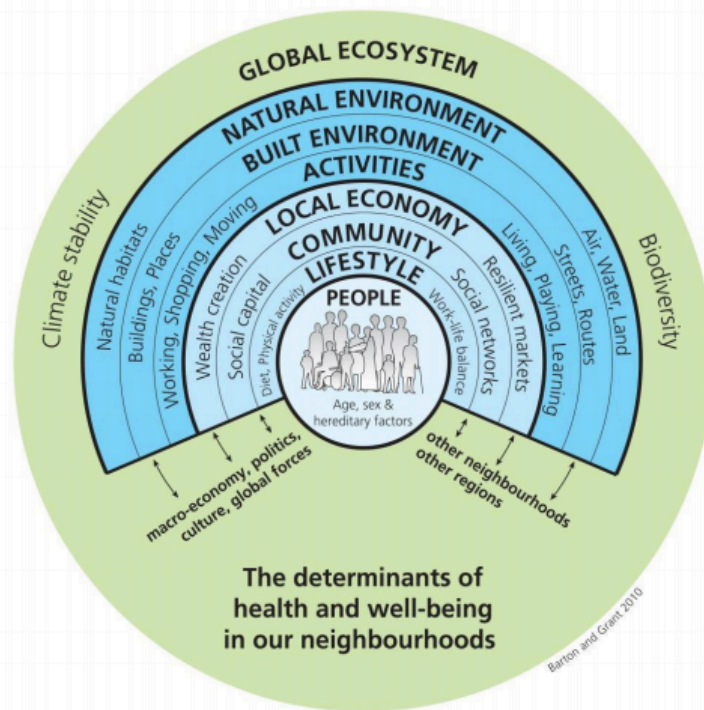
Figure 1: The determinants of health and well-being in our neighbourhoods as represented in Strategic Planning Policy for Northern Ireland (Barton and Grant, 2006, as reproduced in DOE, 2015)

Rights in planning processes and outcomes

Definition of public interest is not simply a technocratic matter for government representatives and officials (Ellis, 2004). International commitments, made by the UK and Irish governments among many others, highlight shared agendas in which the rights of individual citizens (for example to develop land in their ownership, or to object to a neighbour doing so) are balanced against the wider public interest (for economic prosperity, long term environmental protection or provision of social facilities of public services). These almost always involve difficult trade-offs, which elected representatives, advised by professional planners, have to determine when making planning decisions. While local and national planning policy helps frame these decisions, they must also be made within a legal framework that includes not only planning legislation, but also the laws that define how Governments will uphold the rights of citizens. This includes the European Convention of Human Rights (incorporated into UK law through the Human Rights Act 1998), which has helped define several procedural aspects of the UK planning system (Parker 2001). Indeed, given that UK planning legislation is largely procedural, and leaves scope for applying discretion in decisions on specific planning applications, legally enshrined rights tend to

relate to process (i.e. what you should expect as an applicant or defining opportunities for public participation), rather than guaranteeing specific outcomes (such as access to affordable housing, or even clearly defined environmental standards). Similarly, the UK is a signatory to the 1998 Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, ratified by the UK and Ireland in 2005 and 2012 respectively (Figure 2). Key principles of the Convention are openness, transparency and accountability in the relationships between governments and citizens. In 2016, our national governments also endorsed the United Nations *New Urban Agenda,* which explicitly seeks to promote the empowerment and inclusion of all stakeholders in development, including those currently excluded.

Pillar 1: A Right to Information

The right of citizens to receive information that is held by public authorities

Pillar 2: A Right to Participate

The right of citizens to participate in preparing plans, programmes, policies and legislation that may affect the environment

Pillar 3: A Right to Challenge

The right of citizens to have access to review procedures when their rights to the above have been violated.
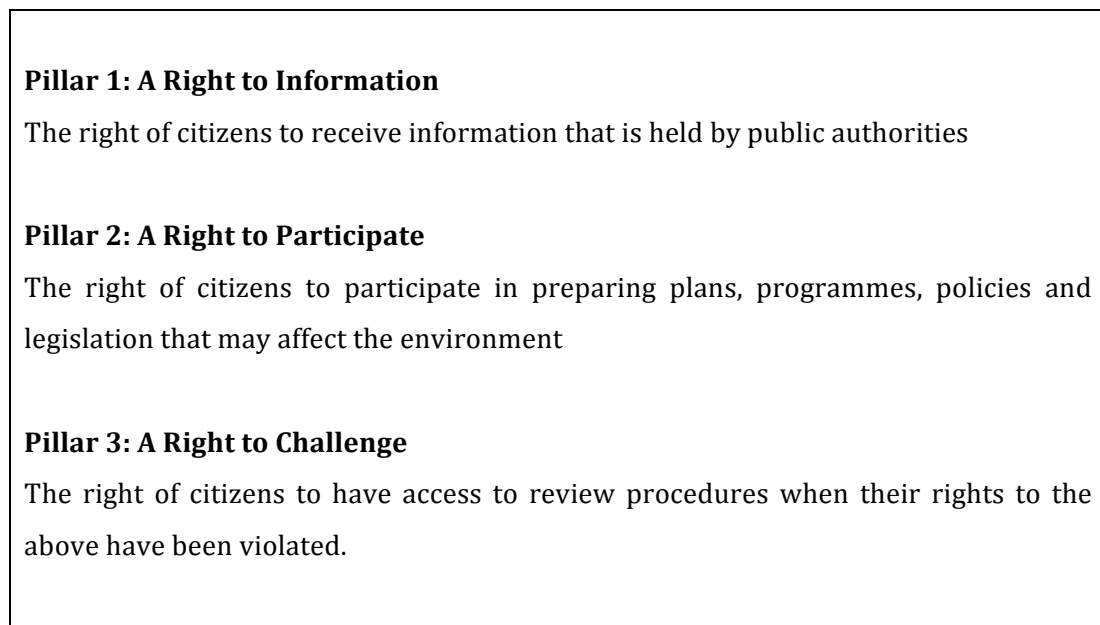

Figure 2: Pillars of the UNECE (Aarhus) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Planning systems provide the machinery through which this collective attempt to protect and promote the public interest in the development of the built environment is made, from the most strategic to the most local scale of decision-making. In the UK, comprehensive planning systems were established soon after the Second World War (Booth, 2003). They were based on the nationalisation of the right to develop land, so that land owners had to apply for permission to undertake significant development on land (including change of use, mining, construction of new buildings etc), which would be granted if considered in the public interest. This is the most effective tool through

which planning seeks to influence the supply or location of housing, support local economies or improve transport while seeking to prevent degradation of the built and natural environments.   At the same time governments at all scales (including community organisations) also use spatial planning to attract and stimulate such developments. Decision-makers are therefore seeking to achieve or justify a balance between stimulus and regulation that delivers the multiple, complex functions and outcomes that society demands from our cities, towns, villages and countryside. Decisions about where the balance lies are often the subject of conflict. They are therefore ultimately political, reflecting both the nature and distribution of power and values within society. Are they fair? Are they transparent? Are there checks and balances to prevent corruption and domination by the most powerful at the expense of the fundamental rights of all citizens? Do they deliver shared commitments to justice and recognise rights to a decent living, housing and environment? Such questions underpin the views of stakeholders in the planning system, as discussed further in this paper.

In this context, research suggests that there are major imbalances in the definition of public interest that privilege market forces over other societal interests (Murphy and Fox-Rogers, 2015; Lennon and Waldron, 2019). Boland et al (2017) argue that in the case of decisions about waterfront development in NI, for example, property and business interests have dominated the understanding and measurement of public benefit, at the expense of local communities, especially those who are already disempowered economically and socially. Inclusion in decision-making is a critical aspect of meeting the public interest within democratic society (Moroni, 2019). What are the processes for ensuring that the full range of different voices is heard, not least for representation of future generations? Planners' perceptions of their role in balancing contending voices to achieve 'public interest' and minimising or mitigating negative effects of development vary (Murphy and Fox-Rogers, 2015; Slade et al, 2019). The Royal Town Planning Institute, which accredits the professional training and performance of planners, contends that "acting in the public interest involves having regard to the expectations of clients, employers, the local community and politicians as well as future generations", and highlights the role of professional planning judgement on how these potentially conflicting interests might be best accommodated in any given situation (RTPI,2017). 'Public interest' is thus largely framed as contrasting the meeting of long-term, shared interests against short-term or individual interests. It suggests that the former is part of the training of planners to recognise and understand the range of

shared goods and services achieved from high quality urban and rural environments and the interventions and partnership mechanisms that can help to deliver and maximise the quality and functioning of those environments.

Ultimately planning decisions operate in the context of complexity; in terms of the myriad of policy guidance, trade-offs of outcomes and the wide diversity of interests they seek to serve. Such decisions can obviously never be based on 'perfect' knowledge and even if they could have robust knowledge about the immediate impact of a development decision on an area under current circumstances, these circumstances will change in unpredictable and complex ways. What therefore is adequate knowledge for decision-making? This will depend not only on technical judgements of benefit and risk but also on value judgements of fair and distributed benefit and risk. Value judgements are political by their very nature. The greater the scale of benefit or risk, the more important it is that value judgements are made democratically and accountably and involve those who will be most affected.

Public Interest and Pressures for Planning Reform in the UK and Ireland

England

It was in the above context that the recent Raynsford Review of Planning in England (TCPA, 2018, p.9) concluded that the current English planning system "does not work effectively in the long-term public interest of communities or the nation". It noted a major loss of public trust in planning, associated with wider social trends towards declining political participation and trust in 'experts' and concludes that: "rebuilding trust in the system and promoting a more constructive dialogue between planners and the public is clearly a priority" (ibid). A subsequent survey of over 2000 citizens in England by Grovesnor (2019) found high levels of citizen distrust of both developers and local planning authorities.

The Raynsford Review found that the breakdown between community planning and development planning in England has meant the loss of an express focus on local plans as the expression of community aspirations. At the same time, it stressed the need to underpin the legal status of local plans to shape development priorities and criteria in order to deliver these aspirations. A unique element of English planning is the statutory role, and preparation process, of community-led neighbourhood plans in development decision-making, as introduced through the Localism Act 2011. The review found

extensive evidence of good practice but noted concerns that they tend to consolidate patterns of social exclusion, while achieving limited community-level outcomes. This is underpinned by what the review describes as "starkly unequal civil rights in the planning process, coupled with a striking imbalance in access to planning expertise, particularly in excluded communities" (page 78).

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A New Covenant for Community Participation

1. Democratic accountability, including clarity about the role of representative and direct democracy in national and regional planning and greater encouragement for participative democracy in the process of planning decision-making.

2. Clear citizen rights, based on the provisions of the Aarhus Convention, so that people have a right to information, a right to participation, and a right to challenge – including the more even distribution of civil rights in planning.

3. A significant new approach to helping communities to engage in the planning process, with a focus on engaging groups who do not currently have a voice, such as children and young people.

4. A new professional culture and skills set directed at engaging communities

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Figure 3: Proposed New Covenant for Community Participation set out in the Raynsford Review Final Report (2018)

The Review called for the development of a participative democratic model that gives communities both rights and responsibilities in local development decision-making (Figure 3). In this context, it specifically stressed the need for a new legal duty to promote the civic rights set out in the Aarhus Convention and, most specifically, for the adoption of a community right to challenge major development proposals that are departures from the local development plan.

Wales

The rights to certain key environmental outcomes is an important focus of both international law and calls for enhanced domestic provision, as highlighted by the Raynsford Review. These include a right to basic living conditions that support people's health and well-being, both now and in the future. These rights have been specifically recognised in the Wellbeing of Future Generations (Wales) Act 2015, which specifies a set of sustainable development goals for public authorities. Recent research by the Auditor General for Wales (2019) specifically reviewed the contribution of the Welsh planning system towards these goals. This included undertaking an online public survey to ascertain citizen views.

The survey found that "citizens are concerned that they are not effectively engaged or involved in discussions on the priorities for development in their area, nor in decision making on local applications" (p.9)*.* A key failing noted in the review was lack of transparency and access to information in the planning system. In conclusion, it found that the Welsh planning system is disproportionately delivering greater benefits for developers than communities, despite its legislative commitments. In response to these findings, the Auditor General made a number of recommendations that specifically relate to the enhancement of community and citizen engagement within the planning system:

- *Local planning authorities should test current engagement and involvement practices and consider the full range of other options available to ensure involvement activities are fit for purpose;*
- *'Place Plans'[i] should be developed as a vehicle to engage and involve communities and citizens in planning choices and decision making;*

Other recommendations were improvement of the engagement and involvement standards for local planning authorities, with each authority setting and reporting on their performance, not only for their administration of the planning system but also for the impact of their planning decisions on wellbeing. Authorities were thus urged to promote a clear ambitious vision for how planning contributes to well-being. In order to do so, the report recommended that there should be appropriate wellbeing training for planning committee members to help them deliver the full range of their responsibilities.

Scotland

An independent review of the Scottish planning system, commissioned by the Scottish Government and published in 2016, found that there had been a fundamental loss of trust in the planning system at the community level (Beveridge et al, 2016; Walton, 2019). A subsequent set of reforms, negotiated in the form of the Planning (Scotland) Act 2019, specifies the purpose of planning "to manage the development and use of land in the long term public interest". Key changes made by the Act that are of particular interest to this paper include:

- The introduction of the opportunity for communities to draft Local Place Plans, which will form part of the local plan (as do neighbourhood plans in England).
- The introduction of regional partnerships to prepare regional spatial strategies, according to regional priorities and housing numbers to be set by the Scottish Government at a national level through the National Planning Framework (NPF).
- More decisions to be made locally – with an increased remit for the Local Review Body.
- New requirements for Councils to produce annual performance reports and the appointment of a national planning performance coordinator to monitor performance.
- Requirement for Elected Members to undergo training before being able to vote on planning decisions.

Republic of Ireland

Perhaps the most prominent difference in terms of community or citizen rights in the Republic of Ireland compared with the systems in the UK is the long standing provision for third party rights of appeal to an independent planning board (An Bord Pleanála) against decisions made by planning authorities (Ellis 2002). However, the collapse of public trust in the Irish planning system, as a result of corruption on the part of decision-makers (Fox-Rogers 2019), led to the establishment in 2019 of the new institution of the Office of the Planning Regulator. Its key focus is to make the system both coherent and transparent to the public and to this end its functions, as set out in revised planning legislation, are to conduct research and public information, educate members and staff of planning authorities, review the performance of planning authorities, including An Bord Pleanála, and to ensure the consistency of planning legislation, ministerial guidance, development plans and regional and economic strategies.

Key issues for review of planning and the public interest in Northern Ireland

Planning reform in Northern Ireland over the last decade aspired to improve public accountability and democratic input to development decision-making (Lloyd and Peel, 2012). More specifically, the independent report on reform commissioned by the NI government in 2008, argued that the new system should enable all stakeholders to engage and bring their understanding of their areas "in a positive way so development can be delivered to the appropriate standards and in a way that takes account of the various social, environmental and economic interests involved" (Lloyd, 2008, p137). However, there has not yet been any formal review of whether the reforms have been effective in addressing these concerns.

Research carried out by Queen's University Belfast in 2011 indicated concerns that the planning system was not performing well for the people of Northern Ireland and showed a strong desire on the part of stakeholders for reform, with prevalent concerns about public confidence, transparency and accountability (Ellis, 2011). The transfer of powers from a centralised planning authority to local planning authorities in each council area, was envisaged as ensuring that planning decisions taken by elected representatives would reflect the views of people most directly affected by the outcomes: "a potentially powerful re-democratisation of local communities and localities across Northern Ireland" (Lloyd and Peel, 2012, p. 182).

The following review of current delivery of the public interest by the Northern Irish planning system in this paper is based on a survey of over 400 stakeholders in planning in Northern Ireland, carried out by the authors between June 2019 and February 2020 (Fox-Rogers et al, 2020). The survey not only sought feedback on stakeholder perceptions of public interest but also attempted to relate these to issues of inclusion, trust and accountability, as discussed above.

Figures 4 and 5 indicate the range of participants and their relationship with the planning system. A third of respondents (33%) described their role in relation to planning as 'citizens'. The views of public sector planners, private sector developers and planning consultancies, voluntary and third sector organisations and local authority councillors were also well represented (Figure 4).
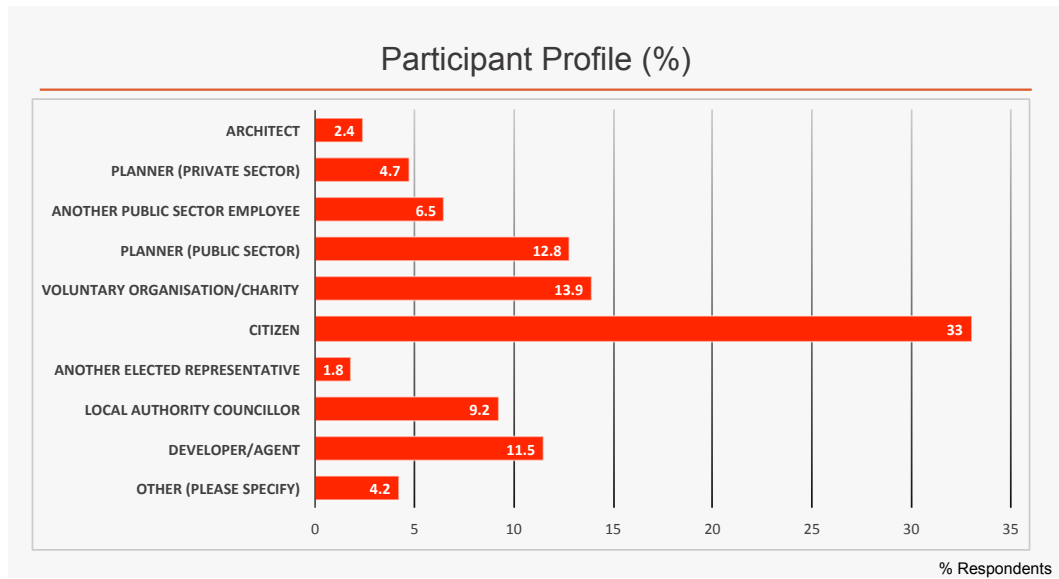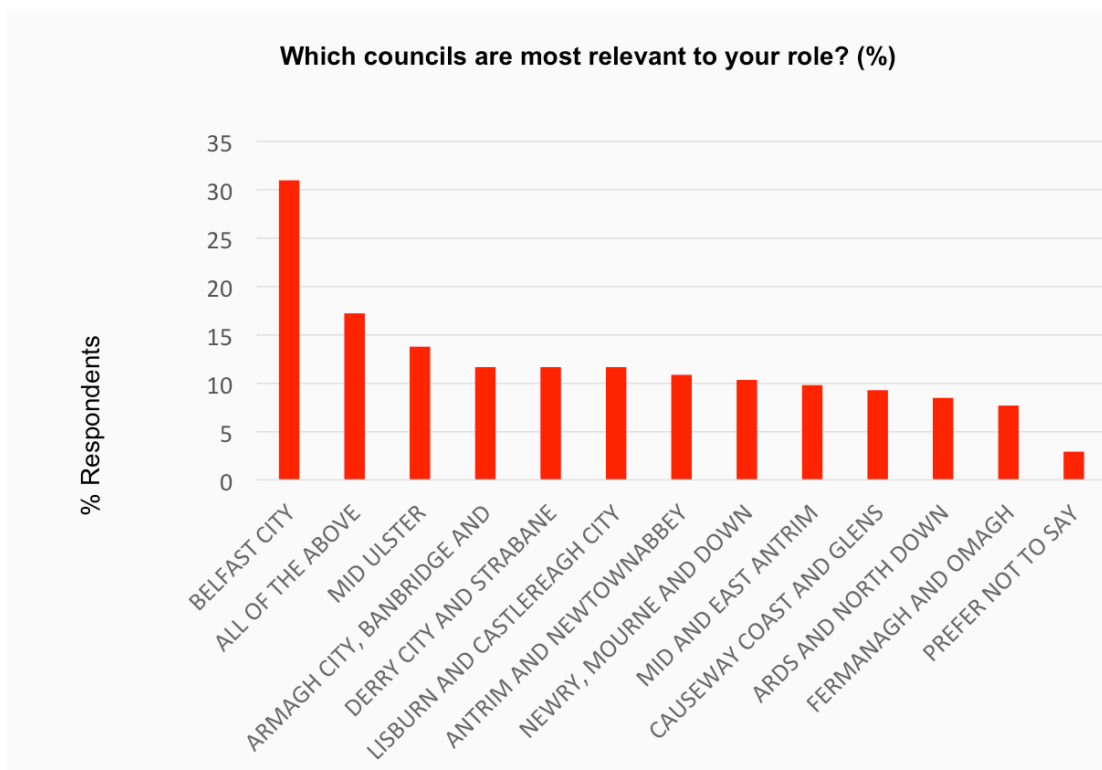
Figure 4 Stakeholder groups in survey

Figure 5: Geographical spread of survey respondents

Weaknesses and challenges in the NI planning system

Trust in planning's current capacity to deliver the public interest

89% of voluntary/charitable organisations, 87% of citizens, 76% of developers and 77% of private sector planners rated the delivery of the public interest by Northern Ireland's planning system as poor. This resonates closely with the findings of the Raynsford review. It is of interest to note that this view was shared by much smaller proportions of public sector planners (36%) and local councillors (32%). This suggests a disconnect between the views of those delivering the planning system and those who are seeking to use or influence its outcomes, about how the system delivers public interest. These results were explored further by asking respondents to indicate the degree to which they trusted other actors in the planning system to "act in the public interest".

Level of Trust Placed By:

In the following:	Developers	LA Councillors	Citizen	Voluntary Org	LA Planners
LA Planners	2.8	3.8	1.9	2.3	
LA Councillors	2.2		1.9	2.1	2.3
Other Elected Reps	2	2.7	1.7	1.8	2.1
Developers		2.7	1.4	1.3	2.1
Voluntary Organisations	3.2	2.6	3.2		3.4
PAC	3.5	2.9	2.3	2.3	3.4
Planning System	2.1	3.3	1.6	1.8	3.1

High level of trust (above 3.5)
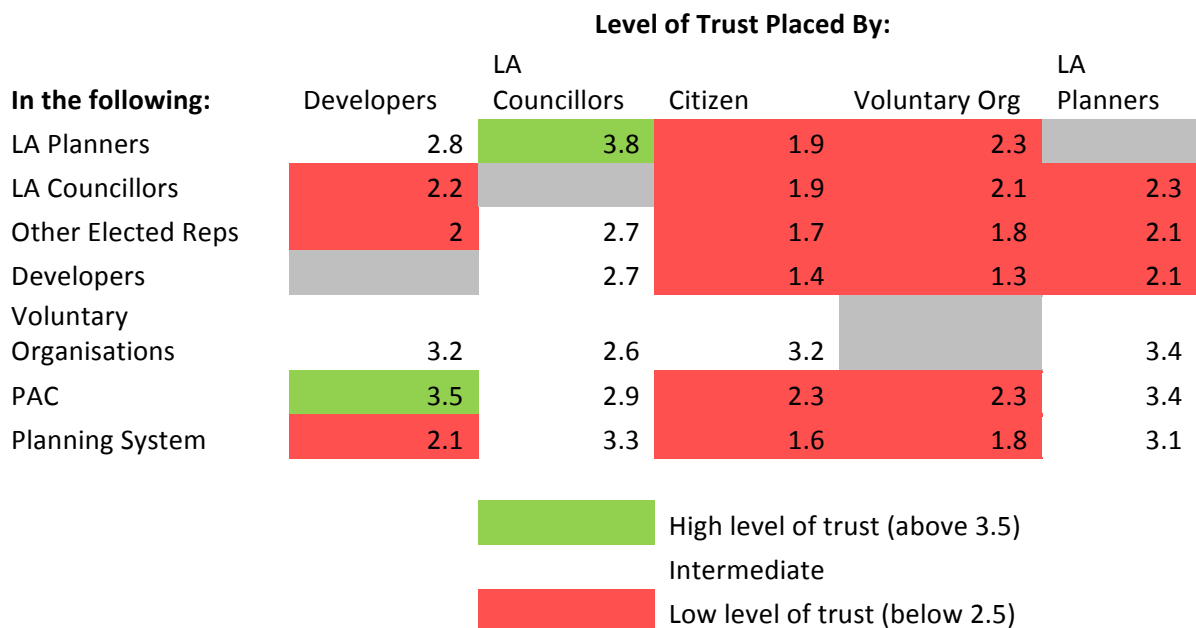
Intermediate

Low level of trust (below 2.5)

Figure 6: Trust between stakeholder groups in NI planning system

Figure 6 shows that relatively high levels of trust were placed in public sector planners by local authority councillors and in the Planning Appeals Commission by developers. The lowest levels of trust overall were found amongst citizen and third sector stakeholders, with 73% of citizens reporting very low levels of trust in developers, 58% in the system as a whole and 54% in planners and councillors. This suggests that the

crisis of trust observed in reviews of other planning systems, discussed above, is one that is strongly replicated in the Northern Irish context.

Qualitative comments made by respondents give insights into underlying reasons for this crisis of trust. They reflect concerns about both the processes and the outcomes of development decision-making, with the most frequently added comments raising issues of :

1. Weak public engagement by planning authorities.
2. Lack of transparency, accountability and consistency around development control/management decisions and enforcement.
3. Lack of effectiveness in protecting both natural environment and built heritage.

Engagement and influence in defining the public interest

The survey results point to a widely perceived failure to engage effectively with all stakeholders within the current system. While 41% of developers perceived that their influence was very low, with their views rarely or never taken into account, this perception of low level of influence was held by 74% of citizens and 63% of those from voluntary organisations. 84% of local councillors, on the other hand, believed that their views were taken into account, at least sometimes, with 48% perceiving that they influenced the decisions in which they were involved always or generally. It is not surprising that respondents rated citizens as the least powerful group within the planning system. What is notable however is that this in strong contrast to the perception of developers, who were perceived overall as having comparable levels of power to regulators within the system (Figure 7)

Figure 8 gives further insights into how power or influence is perceived between actors in the system. While citizens are clearly seen as by far the least powerful by all stakeholders, there are clear differences in perceptions. For instance citizens and those from voluntary organisations see developers as the most powerful actors in the system and do not place so much emphasis on the role of the Planning Appeals Commission (PAC). Councillors see the most powerful actors as being local authority planners and the PAC, while planners see a more balanced distribution between developers, councillors and the PAC, with their own role either as less influential or perhaps as a mediating role. Developers, on the other hand, ascribe considerable power in the

system to both the members and officials of the local planning authority but see the most power residing in the hands of the PAC.
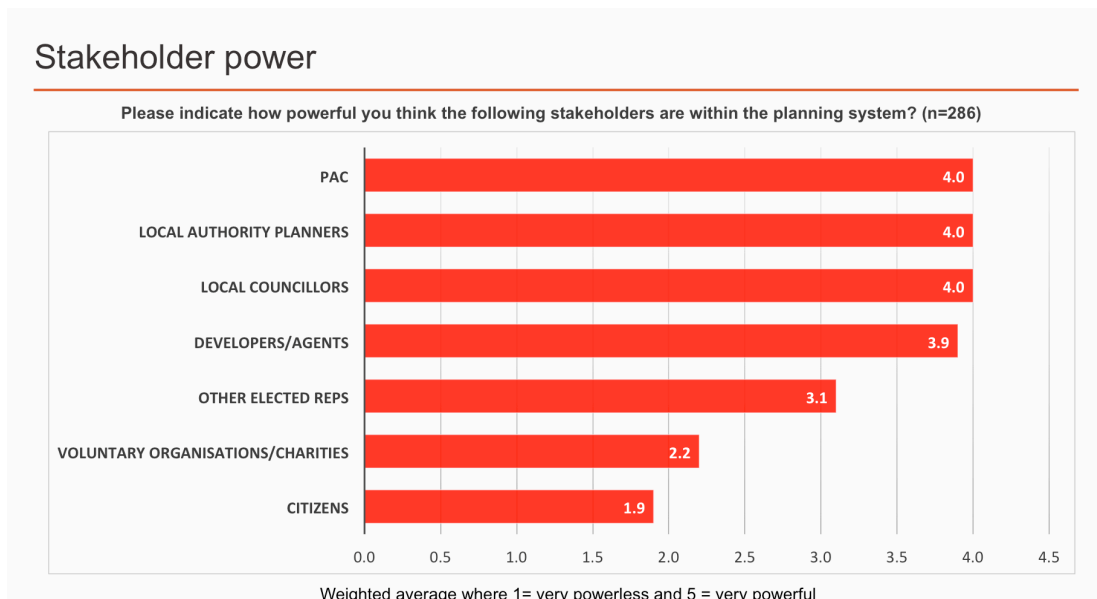

Figure 7: Perceptions of levels of power held by stakeholders within the NI planning system

By the following:	Rated Powerful/Very Powerful (%)					
	Developers	LA Councillors	Citizens	Voluntary Org	LA Planners	PAC
LA Planners	79	79	9	18	53	82
LA Councillors	71	61	10	7	100	90
Developers	21	79	9	9	73	94
Voluntary Organisations	89	68	0	2	73	55
Citizens	84	67	3	5	63	57

Figure 8: Perceptions by different stakeholders of the distribution of power within the NI planning system

Given that the transfer of planning powers from central to local planning authorities LPAs) in 2015 was designed to more fully engage and empower those most affected by planning decisions in the processes of both plan-making and the regulation of

development, these findings point to the limitations of representative democracy alone in engaging communities and citizens in the planning system. In fact, Figure 9 shows that 72% of citizen respondents judged that transfer of planning powers to LPAs had had a negative impact on public participation, compared with the 65% of Councillors who thought it had had a positive impact on public participation. The perceptions of public sector planners about the impact of the transfer was divided, with half believing that the transfer had had a positive impact and half believing that it had had either a negative impact or no impact at all.

		Don't know	Negative	Neutral	Positive
Transparency	Citizen	6	75	13	7
	Developer	3	49	27	21
	LA Councillor	0	0	16	84
	Planner (public)	0	38	15	47
Public Participation	Citizen	3	72	16	9
	Developer	3	33	36	27
	LA Councillor	0	7	29	65
	Planner (public)	3	24	24	50
Political accountability	Citizen	3	81	8	8
	Developer	3	46	21	30
	LA Councillor	0	3	10	87
	Planner (public)	6	38	15	41
Reducing opportunities for corruption	Citizen	11	81	5	3
	Developer	9	58	21	12
	LA Councillor	3	7	16	74
	Planner (public)	6	53	21	21

Figure 9: Perceptions of impacts of transfer of powers from central to local planning authorities

The survey reveals an overall perception that planners' relationships with community groups and environmental organisations are too distant while relationships with developers, politicians and business interests have a tendency to be too close, suggesting an imbalance in influence (Figure 10). One respondent wrote:

> "*Planning professionals have a very narrow view of stakeholders - the citizen and community are not seen as stakeholders - only seen as objectors or people that must be notified or given some opportunity to comment*" [Resp 198. Q11]

Another expressed the view that:

"Planning practices and procedures seem to be designed to make life difficult for the citizens and communities who try to engage with them. Many people are of the opinion that the procedures are designed to put people off complaining or objecting. There is a policy of ignore, delay, delay and defer, defer which very often causes burn out in those who are giving their time to defend environmentally sensitive areas. People are very often treated by councils, planners and those in power as some sort of useless upstarts." [Resp 102, Q11]
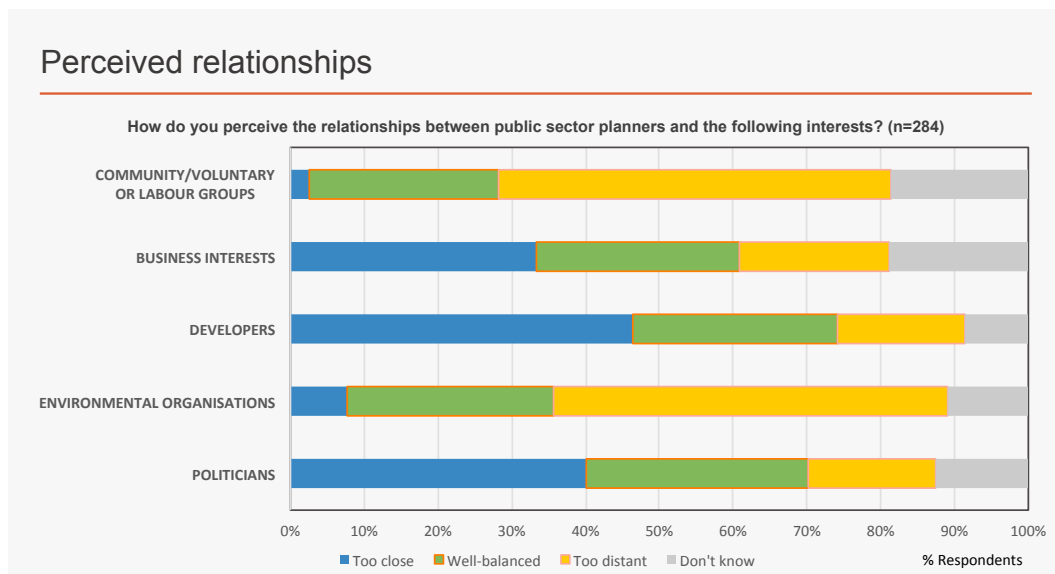

Figure 10: Perceived relationships between public sector planners and other stakeholder groups

Transparency and accountability

Over 75% of citizens judged that transfer of planning powers to LPAs had had a negative impact on transparency and accountability (Figure 9). In comparison, the majority of public planners believed that it had either a neutral or positive impact on transparency (62%) and accountability (56%). However, the contrast between citizen and local councillor perceptions are the most striking, with over 80% of the latter believing that the transfer has had a positive impact on transparency and accountability

One of the recurring themes emerging from associated comments on the transfer relates to concerns that LPAs were "not being held to account for planning decisions". One respondent wrote:

"[The] rationale underpinning transfer of planning to councils is to promote public representation in planning decision-making. Yet, based on my experience, councillors, both members and non-members of Council planning committees, simply do not grasp the complexity of planning. Particularly when it comes to considering the long-term implications of their decisions. The result has been a complete loss of trust and confidence in the planning system to represent the needs of the general public, while actors with the resources to influence decision-making successfully subvert the system."(Resp 17, Q5)

	Ranking of Importance		
	1	2	3
Citizens:	Lack of transparency between developers, politicians and planners	Potential for corruption	Poor political leadership
Voluntary organisations:	Lack of transparency between developers, politicians and planners	Lack of training for councillors	Poor political leadership
Developers:	Planning system is too slow and inefficient	Lack of training for councillors	Lack of resourcing for planning authorities; Lack of training for planners; Potential for corruption; Poor political leadership
LA Councillors:	Potential for corruption	Lack of enforcement	Planning system lacks teeth to address key problems; Lack of resourcing for planning authorities
LA Planners:	Lack of training for councillors	Lack of resourcing for planning authorities	Poor political leadership

Figure 11: Stakeholder groups' top-ranking of issues for reform

When respondents were asked to prioritise issues for further reform, the top issues identified by all respondents were:

1. Lack of training for councillors

2. Lack of transparency in the relationships between developers, politicians and planners, which not only raise concerns about potential for corruption in the most extreme cases, but also lack of balanced influence and consideration

3. Concerns about political leadership

Figure 11 gives further insights into differences and similarities in the most important concerns identified by different stakeholder groups. It is particularly striking that local authority politicians highlight their concerns about the potential for corruption. They also highlight concerns about the lack of enforcement. Concerns about the lack of resourcing and capacity of local authorities are shared between developers and local authority planners and members.

Public interest deficits in planning outcomes

Concerns about the engagement of stakeholders and the transparency and accountability of the decision-making system undermine public confidence in planning. Low levels of engagement result in a lack of information about the issues that are of importance to stakeholders. In this context, the survey sought stakeholder views on the outcomes that need to be better delivered in the public interest by the planning system. Climate change and the provision of open/green space were flagged by 77% and 74% of respondents respectively. Other areas included environmental protection, socially balanced communities, affordable housing delivery, securing developer contributions, health and well-being, and car-dependency. All of these were highlighted as issues that "need to be far better addressed by planning" by over 60% of respondents. 45% of respondents felt that economic development needs to be addressed far better by planning. Not surprisingly, however, opinions on priorities remain deeply divided:

"*Everything is contextualised in the short term with no thought whatever to sustainability, tourism, future generations, climate change, getting people out of cars. We know what needs doing, our planning system is going in the opposite direction at the behest of politicians adhering to a political ideology that serves the markets.*" (Resp 72, Q8)

"*As a major control/delay in the flow of a regions growth the Planning System needs to move to a position of making Northern Ireland a good and attractive place to do business in. At the moment it is a major barrier.*" (Resp 90, Q8)

Strengths and opportunities in the NI planning system

It is clear that planning systems across the UK and Ireland are wrestling to achieve what the Raynsford Review (TCPA, 2018, p7) describes as a "a balanced settlement in which the development needs of our communities are met in the most sustainable ways, and in which all parts of the community have a real voice in the decision-making process". The survey described above indicates that, while Northern Ireland has historically faced its own particular governance issues arising from cultural and political division and violence, and a long period (prior to 2015) of poor democratic oversight through centralisation of planning, the current challenges for its planning system are comparable to those of neighbouring jurisdictions, and it therefore can benefit from learning from their experiences and proposed solutions. There is therefore clearly a shared need for innovation and experimentation in planning, participation and governance at the Northern Ireland level. At the same time, the region faces new specific hurdles, not least from the effects of the UK's withdrawal from the European Union. These have been seriously compounded by the impacts of the COVID-19 pandemic on the region's economy and services. In this context the delivery of both spatial and community planning in Northern Ireland has the opportunity to learn from learning and experimentation in neighbouring jurisdictions (Pemberton et al 2015).

This section seeks to outline existing planning resources that Northern Ireland can build upon to address the challenges identified above and to develop a planning system that can more fully deliver the public interest. It discusses opportunities to further strengthen the region's legislative base to achieve key objectives; the role of development plans in improving the transparency and inclusiveness of the planning system as a whole; the potential offered by good practice in social enterprise and innovation; and the opportunities to build social and governance capacity. These opportunities are clearly deeply interrelated and it is not the role of this paper to set out a roadmap for delivery. Rather, it seeks to draw on research findings to highlight specific priorities and linkages and to indicate possibilities to learn from and build on good practice in the UK and Irish planning systems.

A coherent legislative base

The regressive impacts of 'the Troubles' on democratic government have meant that in a bid to regain lost ground, Northern Ireland had the opportunity to consolidate and review planning legislation in the Planning (NI) Act 2011, in the light of others'

experience. In this context, the NI planning system has a relatively coherent and up-to-date legislative base for spatial planning and its relationship with local government and community planning, as set out in the spatial planning Local Government Act (NI) 2014. There are however clear gaps in the legislative frameworks in place to achieve overall economic, environmental and social objectives, which are reflected in the findings presented above. In particular, there are major concerns about the mechanisms for building the region's development capacity in terms of the protection of environmental resources and climate change, the coordination of development, the role of communities in setting and delivering development objectives and the building of public trust.

There are clear opportunities to address the lack of up-to-date environmental legislation in Northern Ireland, pertaining to climate change, environmental protection and heritage objectives alongside the enhanced enforcement of planning regulations. The context of the post-Brexit regulatory regime and the UK Environment Bill provides a key opportunity for this, but with dangers that it may also further weaken the link between the planning system and environmental protection (Cowell et al 2020) A key element of new legislation should be the incorporation of strengthened public access to environmental information, including information relevant to planning decisions and the process of environmental impact assessment in the context of the UK Environment Bill (Cave 2020, Gravey et al 2018). The fact that the region is alone in the UK and Ireland in not having an independent environmental protection agency has been highlighted by many others (Brennan et al 2017). Given that Northern Ireland has weaker environmental governance than other parts of the UK, and that environmental damage is a key element in many planning related controversies[1], action to strengthen the planning system's role in environmental protection would make a significant contribution to also securing many community-led concerns and help meet calls to strengthen timely public access to all relevant documentation used in justifying final planning decisions.

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[1] For example the major illegal waste dump at Mobuoy Rd (https://www.belfasttelegraph.co.uk/news/environment/festering-cache-of-illegally-dumped-rubbish-beneath-derry-countryside-29327258.html), the fracking exploration site at Woodburn Forest (https://www.bbc.co.uk/news/uk-northern-ireland-36553344), and more recently irregularities in the Local Development plan by Fermanagh and Omagh District Council (https://www.bbc.co.uk/news/uk-northern-ireland-54295913).

Strategic vision at regional, local and community levels

A key concern highlighted across stakeholder sectors was a perceived lack of strategic decision-making both between and within local authority areas. At the same time, it was pointed out that the adoption of the first round of Local Development Plans based on the new local authority-led planning system has still to be completed and should be expected to address such concerns. This highlights the importance of Local Development Plans and raises key questions about the role of the NI Regional Development Strategy (which is an element of the Good Friday Agreement) in coordinating Local Development Plans and how stakeholders should be engaged in its review. In Scotland, stakeholder engagement in the review of the country's strategic spatial framework is being strengthened by the setting up of partnerships to mediate local and national priorities. A similar role is played by the Republic of Ireland's regional assemblies.

The potential for community-led planning

While community plans prepared under the Local Government Act (NI) 2014 appear to be playing a significant role in setting the context of local plan preparation by local planning authorities, there is no legislative provision to accommodate community-led plans in Northern Ireland (i.e. at the neighbourhood or sub-district level). This fails to recognise the particularly advanced development of the community sector supported by EU and other sources of funding over many decades. The key role of local partnerships, development trusts and social enterprises in regeneration is thus excluded from realising its potential within the development planning process.

Again, recent developments in Scotland are of particular relevance. Recognition of the contribution that community-led plans can make has been translated into the provisions for local place plans in the Planning (Scotland) Act 2019. This will enable the critical planning work of community organisations (as defined in the Community Empowerment (Scotland) Act 2015) to feed directly into the local planning process and give community priorities statutory weight in decision-making processes. The recent report by the Auditor General for Wales has recommended that the Welsh Government should adopt a similar approach to strengthen the voice of local communities and citizens.

Strengthening public trust

Overall top priorities for change identified in the survey of stakeholders were:

- A review and enforcement of codes of conduct for councillors;
- Publication of full justification of planning committee decisions that contravene planners' recommendations;
- More robust whistle blower protection;
- All lobbying about planning applications or policies to be publicly registered;
- Lower thresholds governing the publication of political donations;
- The establishment of an independent planning regulator.

Some stakeholders argue that the introduction of third party appeal would promote openness and transparency, as well as strengthening public input to planning decisions, for example:

"The introduction of third party appeals will help give the public equal weight within the planning system. This would also encourage participation and ensure more decisions are made to benefit public interest. It would also reduce poor decision making and opportunities for corruption." [Resp 232, Q15]

A frequently raised theme is a perceived need for a dedicated service to assist public and community engagement in planning, for example:

"A dedicated independent planning aid or advice service needs to be available in NI (as it is other jurisdictions)." [Resp.65, Q16]

"Local residents have very limited support when they wish to challenge a planning application. The only organisation which has provided support locally is Community Places." [Resp.197, Q16]

Another key theme is the education, and training of planners to develop local understanding and communicate more effectively with all stakeholders in their professional roles, for example:

"We need to move away from reactive adversarial relationships in the planning profession where everybody is scared to be open and honest, and introduce better

relationships, greater partnership working and proactive planning at the beginning of the development process in order to achieve better outcomes." [Resp.308, Q16]

Clear commitment to the well-being agenda across government

As noted in the introduction to this paper, the legislation and guidance underpinning the NI planning system identifies that the Department of Infrastructure should use its planning responsibilities to further sustainable development and promote or improve well-being. However, the capacity and competence of all public bodies involved in the planning system to deliver this objective needs urgent review. The survey highlights the concern that plan-making and planning decisions need to shift their focus to sustainability and well-being, combining environmental quality with greater emphasis on overcoming disadvantage, and away from a narrow economic focus that privileges short-term financial gain over sustainable economic activity. It reflects the frustration amongst many stakeholders in the planning system that these objectives are not currently being delivered effectively. The last Programme for Government prepared for Northern Ireland placed a renewed emphasis on measuring how the range of government services and strategies contributed to tangible outcomes, many of which relied on the planning system, and a reconnection to these, with measurable indicators and regular review would help focus on its delivery of well-being.

Innovative practice in the community sector

There are many examples of innovative community sector practice in Northern Ireland, developed over decades in response to the particular challenges faced by divided and marginalised communities. While government and international funding have played an important role in its development, the sector has long recognised the need to innovate and strengthen self-reliance, forging new relationships within the overall governance landscape. These networks and organisations offer important capacity for developing community-led planning within the NI planning system, particularly in those areas where regeneration needs are most pressing.

Recommendations for the Northern Irish Planning System

The following recommendations are designed to summarise the above discussion as an input to the development of alternative scenarios for on-going improvement of the Northern Irish planning system. These have been formulated from the analysis presented in this report and the key emerging priorities that:

- The NI planning system requires <u>higher levels of transparency</u>, as it is clear that citizens and other development stakeholders in Northern Ireland perceive that they do not receive the levels of timely information that help them input into planning decisions and understand planning outcomes;
- This needs to be accompanied by a <u>new agenda for engagement</u> based on enhancing current rights and ability to participate in planning policies and decisions, which recognise inequities in capacities and resources to input into the development process, including plan-making, decisions about specific proposals and public interest delivery.
- <u>Enhanced rights of challenge and review</u> are required in the NI planning system in order to address a serious lack of public trust in both decision-making processes and outcomes.

In order that these can be focussed at different forms of response, detailed recommendations are organised under three main themes:

1. *An enhanced agenda for community outcomes through the planning system*, i.e. using existing resources and legislation to improve the way the planning system can deliver its existing duties to promote sustainable development and well-being;
2. *Review of support for engagement*, i.e. identifying the ways in which the capacity of the community sector can be enhanced so it can more effectively contribute to the planning system;
3. *Reviewing current legislative provisions*, i.e. identifying those statutory provisions that may need to be strengthened if community rights are to be enhanced.

1. *An enhanced agenda for community outcomes through the planning system*

The following recommendations can be accommodated under existing legislation by enhancing the effectiveness of how the planning system currently functions:

a) Developing a set of outcome indicators for the planning system and each local planning system on how they improve well-being, protect the environment and respond to climate change and social priorities. These should be subject to annual reporting and reviewing, potentially by a new Independent Planning Regulator (see below);

b) Given the lack of trust in a number of key actors in the planning system, there should be a more detailed and accessible public register of donations and declared conflict of interest for those involved in any aspect of planning decision-making;

c) While local authorities have provided training for councillors on their responsibilities for decision-making in the planning system, there appears to have been a lack of emphasis on how this can be used to enhance community outcomes, and the benefits of effective public participation, including fulfilment of Aarhus Convention obligations;

d) There is potential for further innovation and experimentation in the way planning, and public engagement in planning, is undertaken. While this may require additional resources and legislative support (see below), there is existing scope to draw on good practice and to catalyse actions through ministerial encouragement and direction.

2. *Review of support for engagement*

The following recommendations address issues where additional resources can be deployed to enhance public engagement around the planning system:

a) The current Northern Ireland Planning Portal has been primarily developed to facilitate greater levels of digital processing of planning applications, yet has not been optimised as an interface for public engagement. A key priority is for the Portal to be redeveloped to enhance the capacity of all stakeholders in the planning system, and particularly citizens and community organisations, to engage with planning decisions and development of policy.

b) At present the Department of Infrastructure has no publicly accessible programme of research and, it appears, no mechanism for assessing the performance of the planning system other than the speed of decision-making.

This clearly introduces major biases in the institutional understanding of community impacts of the planning system, while prioritising administrative speed over quality of decision and outcome. A new research programme and enhanced analytical support for community-led planning activity could help address this imbalance;

c) There has been a rich tradition of planning advocacy and technical support for communities in planning (including Community Technical Aid/Community Places and Planning Aid), which now lacks adequate resourcing in Northern Ireland, yet can make a critical difference to the ability of community to meaningfully engage in planning decisions. This needs to be urgently reviewed, with the Department of Infrastructure, local planning authorities and the planning profession playing critical roles.

3. *Review of current legislative provisions*

The following recommendations are more challenging in that they require legislative reform:

a) The development of a legislative base for the input of community-led planning into local development plans and strategic decision-making and the linkage of community-led plans (such as 'local place plans') to the allocation of resources and rights to buy and manage property where appropriate;

b) Review of the impact of the UK Environment Bill and other Brexit–related environmental legislation on requirements for planning-related information and public engagement;

c) In the light of the UK Environment Bill, the need for an independent environmental protection agency and the role of planning in environmental protection needs to be urgently reviewed;

d) Consideration of the potential role of an independent planning regulator for Northern Ireland;

e) Provision for community organisations to appeal decisions that are counter to the overall objective of "furthering sustainable development and promoting or improving well-being". The right of appeal can be defined and limited in a way which maximises the need to take into account community views earlier in the decision-making process, for example limiting this to where local planning authorities go against an officers recommendation, where the development requires an EIA or where it constitutes a departure from a planning policy.

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