

**COUNCIL FOR NATURE CONSERVATION  
AND THE COUNTRYSIDE**  
**An Advisory Council to the Department of the Environment**

Room G-07, Waterman House, 5 – 33 Hill Street,  
Belfast, BT1 2LA

Telephone: 028905 43184/43050

[secretariat-hillst@doeni.gov.uk](mailto:secretariat-hillst@doeni.gov.uk)

[www.cncni.gov.uk](http://www.cncni.gov.uk)

Mr Stephen Hamilton  
Draft PPS23 Public Consultation  
Planning Policy Division  
Department of the Environment  
Millennium House  
17-25 Great Victoria Street  
BELFAST BT2 7BA

**Via email**

**DRAFT PPS 23 ENABLING DEVELOPMENT**

CNCC welcomes the opportunity to comment on this Draft PPS. Much of its content appears to lie outside of our area of expertise, but since 'the restoration/creation of publicly accessible wildlife habitat' is included as an instance where enabling development may be considered (Policy ED1) we would wish to make some points.

In general CNCC would be supportive of the principles articulated in much of this Draft PPS, where enabling development seeks to subsidise the cost of maintenance, major repair or conversion to optimum viable use of a significant place as set out in Paragraph 1.2. This would put Northern Ireland on an equal footing with the rest of the UK in this regard. However we believe that there needs to be a series of much clearer definitions of a number of terms that are used throughout the document to clarify where enabling development might be considered. The following terms in particular could become liable to legal challenge:-

'Enabling development' (may need some amplification/explanation)

'Significant public benefit'

'Regional' and 'sub-regional'

'A range of leisure facilities'

'Social and health infrastructure'

'Significant place'

The last term is defined on Page 3, but the definition does not include some of the instances that are set out in the actual Policy ED1. In particular it does not include wildlife habitat or natural heritage, other than historic parks, gardens or demesnes, which are mentioned for their historic interest. This confusion continues throughout the Draft PPS and particularly in the Best Practice Guidance, which appears to cover only the built or historic environment. Clearly the greatest part of the Draft PPS has been taken from the English Heritage guidance, and no consideration has been given to the natural environment. We recommend that this situation is clarified with clear references to the natural environment throughout the PPS and the Guidance.

## **Policy ED1**

CNCC is content with the criteria that an applicant would have to demonstrate in the submission of a Statement of Justification.

We consider however that the instances where enabling development might be considered are too widely defined, and that the principles of enabling development and of significant place are eroded by the inclusion of several categories. These are:-

- the provision of cultural activities
- the provision of community facilities
- the provision of educational facilities
- social and health infrastructure
- a range of leisure facilities (this in particular could cover almost anything!)

In addition, we consider that the final case 'the cessation and removal of undesirable use elsewhere on land in control of the applicant, where appropriate' should be further qualified to make clear that this cannot be used where the undesirable use has involved breaking of the law. This might include development without the necessary planning permission, discharges without the required consents, illegal dumping, or the carrying out of notifiable operations on an ASSI without consent.

We support the fact that developers are encouraged to enter pre-application discussions with the planning authority. We also support the potential use of Article 40 planning agreements to ensure that public benefit is delivered. We suggest that since public benefit is the major goal that public consultation/community involvement is included at an early stage of the process.

We see the Statement of Justification as critical to the process, and the provision of high quality financial information as essential. We suggest that failure to provide this information shall result in refusal of planning permission, rather than 'may' have this result as stated in Paragraph 4.9.

We support the point made in Paragraph 4.10 that the benefit must be long term and sustainable,

## **ASSESSING ENABLING DEVELOPMENT – BEST PRACTICE GUIDANCE TO PPS23**

CNCC commends this detailed and comprehensive guide to best practice, which clearly sets out the fine detail of what would be involved in seeking permission for an enabling development. As we pointed out above the scope of this needs to be widened if categories of development other than the narrow definition of 'significant places' are to be included. This is evident from the title to Section 1.2 – 'Caring for the Built Heritage'.

We strongly support the statements in Section 3.5 about Transparency and Accountability, and the clear recognition that 'the exercise of due diligence is essential', which is further explored in Section 5.14. We have some concerns about the ability of planning authorities in Northern Ireland to provide the necessary level of scrutiny, and the financial constraints that may preclude the engagement of external consultants unless the developer is able and willing to cover the cost. This could cause significant problems for some types of developer, including charitable NGOs and Building Preservation Trusts, who are likely to be involved in the conservation of significant places.

We welcome the clear recognition of Biodiversity value in Section 6.2, but again recommend that this section is re-written to take account of the inclusion of wildlife habitat as a potential category where enabling development might be considered. The statement that 'an integrated, holistic view should be taken of the management of all environmental assets and values' is particularly welcome.

We also welcome Section 6.3 on Sustainability, and the recognition that this is multi-faceted, with the need to 'bear in mind the wider picture'. The statement about making settlement and land-use patterns more sustainable is particularly relevant to Northern Ireland, and needs to be considered very seriously in applications for enabling development.

We welcome the commitment to Community Participation in Section 6.4, in particular the public access elements, which we see as being particularly relevant in Northern Ireland where public access is generally very limited compared to the rest of the UK.

CNCC also welcomes the statements on securing long-term management in Section 7.6. We would have some concerns that this is focused so strongly on the built heritage, and would wish to see much greater recognition of long-term management of natural heritage assets, which may require significant sums to be spent on management on an annual basis in perpetuity. This may well require a very different approach to appraisal of the financial proposals, and careful consideration of management plans.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Patrick Casement', written in a cursive style.

**Patrick Casement**  
**Chairman**