



NILGA Local Planning Leadership Programme for Elected Members

November 2023

Module Design, Delivery and Evaluation:

Context and Background

The NILGA Local Planning Leadership Programme 2023-24 is a modular accredited, Northern Ireland Planning System capacity building programme for councillors. It has evolved from an initial collaboration with Diana Fitzsimons MA, MSc, FRICS and MRTPI, planning and policy specialist and a visiting professor at Ulster University. A partnership agreement was also established with Dorothy McKee Consulting an accredited ILM Centre who is has advised on the accreditation of the programme to ILM standards.

The delivery of this programme will be interactive and interesting for Councillors, enabling councillors to better understand the various aspects of their leadership role in planning. It allows them to learn from case studies, to ask questions regularly and to undertake role play in workshops.

Clear and illustrated hand-outs in plain English will be given to participants throughout the course, with each hand-out containing links to further reading and the policy/legislation referred to. The Programme will also introduce leadership theories that are relevant to the planning context. The hand-outs will be hardcopy or electronic.

Case studies will be accompanied by maps and other illustrative material.

Real life examples from the presenters' experiences in Northern Ireland and in other parts of the UK will be used throughout the presentations and discussions to keep the modules interesting and relevant to each Councillor's everyday role in relation to planning.

The delivery will include:

- (a) short presentations using PowerPoint
- (b) discussions
- (c) case studies and benchmarking practice in other jurisdictions
- (d) workshops with role play
- (e) question/answer sessions
- (f) mock appeal
- (g) hand-outs in paper and electronic form
- (h) summary notes of discussions at each session and suggestions for further training
- (i) optional site visit as detailed

Outcomes and Evaluation:

Modules 1 & 2:

- Improve each Councillor's understanding of the plan making system and their role in the process as civic leaders,
- Increase their understanding about what their Council's priorities for statutory plan making could and should be,
- Help them to ensure that the Council effectively manages the planning process and does not breach any statutory requirements or fail to get the plan through to adoption in a timely manner,
- Improve each Councillor's understanding of the linkages, both statutory and practical, between community planning and the statutory local development planning being carried out by the Councils and the strategic leadership role of a Councillor.

Modules 3-4:

- Improve each Councillor's understanding of the development management system,
- Build an enhanced strategic leadership decision-making capacity for Councillors to be able to deliver the Council's planning objectives as set out in its policies, its emerging LDP and in regional guidance,
- Improve the Councillors' understanding of the enforcement process and when enforcement action is desirable,
- Enable them to participate effectively and take the lead in making robust and defensible decisions about the future of their Council area.
- Enable Councillors and their Councils to demonstrate 'joined up' good governance and to deliver planning and related activities in a holistic way.

Modules 5:

- Reduce the Council's vulnerability on appeal and minimise the possibility of award of costs at appeal,
- Reduce the Council's vulnerability in relation to maladministration of their planning powers,
- Help to safeguard each Council's reputation as a responsible decision maker.

Module 6:

- Peer learning and effective leadership development through visiting a local authority which has a wider responsibility of planning for a longer period of time.

The impact and success of the training will be monitored at individual level through returned course evaluation forms and through improved understanding demonstrated in workshops. Councillors who successfully complete the entire course to a satisfactory standard will be receive an ILM recognised award.

Module 1 - Understanding plan making and the role of Councillors

Understanding the Local Development Plan Process from draft stage to adoption

Date: 17th November 2023, 2-4.30pm, In-Person, Venue tbc

Delivered by: Rosemary Daly

Content:

An outline of best practice in preparing and approving a Local Development Plan (LDP) and the role of Councillors as civic leaders:

- Summary of the current plan background to decision taking in each Council area in the absence of up-to-date Local Development Plans (LDPs).
- How can Councillors take the lead in helping shape their Council area for the future benefit of the people who live and work there?
- How important are the various stages of the process in demonstrating an understanding of the responses to the statutory consultation exercises.
- The role of the councillor as a civic leader in Local Development Planning.
- The importance of a collaborative leadership approach in preparing a Local Development Plan.
- How can Councillors work closely with planning officers by giving them clear direction from the outset, helping them to stick to the timetable
- The importance of an up-to-date plan for the economic prosperity of the locality and for implementing the government's Programme for Government
- What are the statutory requirements for preparing the LDP and what is the continuing role for the Department for Infrastructure?
- How important are: fulfilling the Council's Statement of Community Involvement; proper environmental assessment; and ensuring a clear evidence base for decisions?
- What are the relevance of current RoI plans at regional and local level to those Councils with a common boundary to RoI councils?
- What can go wrong with Local Development Plan making and how to avoid this through effective management of the process?

Local Development Plans – How can Committee members best get involved without breaching the Code of Conduct

- Delay
- Political divide within Council on key issues and stalemate
- Non compatibility with regional policy and guidance
- Call in by DfI Planning
- Breach of the Code of Conduct by a Councillor
- Judicial Review of the plan or an element of it.

Workshop case studies:

In considering the civic leadership qualities of councillors, the following case studies may be delivered:

- (a) should there be expansion of a settlement into the Green Belt or not? This theme will be developed at a later stage in the proposed study visit.
- (b) how to ensure development of social/affordable housing in the area – what are the choices? This theme will be developed at a later stage in the proposed study visit.
- (c) a councillor not on a Planning Committee wants to take an active part in an inquiry topic session at Stage 2 as he /she opposes the proposed zoning of a particular site for housing.
- (d) an example of an element of the draft LDP which may not be 'sound' as arguably inconsistent with the evidence base (e.g. calculation of the amount of new housing required over the plan period).

Module 2 – How Local Development planning is linked to community planning and regeneration initiatives – the leadership role of the councillor in analysing complex information and taking sound decisions on place shaping

Date: 15th December 2023, 2-4.30pm, Digital /Online

Delivered by: Gavan Rafferty and Kim Weir

Content:

Community Planning and the Strategic

- What is it? Ironing out misconceptions
- Careful programming of community planning and local development planning within the Council
- The statutory and practical links between the two types of planning
- Avoiding the pitfalls of delay, contradiction or unmet community expectations
- How best to ensure synergies
- Civic leadership role of the councillor needed in taking a more place shaping approach.

Best practice case studies in community planning, working alongside local development planning in Scotland.

Regeneration planning

- Ironing out misconceptions on what regeneration planning is all about
- What DfC regeneration plans are being implemented and thus not renegotiable
- Avoiding the pitfalls of delay and contradiction by properly managing the process
- Increasing understanding of leadership in terms of place shaping.

Best practice case studies/workshop in regeneration planning working alongside local development planning in Scotland.

Managing the Process and making sure that the Local Development Plan is implementable within defined resources.

- Making sure the Council committees understand each other's roles.
- Performance setting and monitoring by the Dept for Infrastructure.
- Call in powers by DfI – case examples.
- DfI power to enforce Joint Plans.
- Meeting the requirements of Environmental Assessment and other EU law.

Questions and Answers

Module 3 - Understanding development management: the planning process and the role of Councillors

Understanding planning conditions and planning agreements and the role of Planning Committee

The Statutory enforcement process and the role of the Planning Committee and other Councillors

Date: 26th January 2024, 2-4pm, Digital / Online

Delivered by: Paul Duffy and Gary Dodds

Content:

The statutory development management process and the role of the councillor in ensuring the effective management of the process:

- Which applications come to the Planning Committee for decision and which are delegated to Council officers or made by DoE Planning
- The importance of case law and regional policy/guidance in making robust planning decisions
- The need to abide by statutory requirements in dealing with planning applications – consultation with statutory agencies, community involvement, timescales etc
- The need for good reporting and clear advice by officers to the planning committee
- The pre-determination hearing and how Councillors should treat this.

Making timely, effective and defensible decisions that reflect evidence ethical decision making and good governance:

- Understanding the need for timely decisions and the costs to the local economy of any unnecessary delays
- The planning committee's role in evaluating planning applications and planning conditions suggested by officer.
- The importance of ethics and impartiality in the decision-making process
- Propriety and leadership in decision making by councillors
- The Committee meeting and best practice – a view from Scotland and England practice
- Whether site visits are required
- Constraints on matters which Councillors can take account of when making planning decisions.
- Dealing with lobbying by applicants and objectors
- Avoiding unreasonable behaviour and potential award of costs

Consideration of Case studies on best (and not so good) practice from Scotland and N Ireland e.g.

(a) application for demolition and replacement of an historic building in a local town

(b) application for a bar/restaurant on the edge of the defined town centre

(c) application for a mixed-use affordable housing scheme on former industrial land

Questions and Answers

Understanding and managing adherence to the legal and policy requirements for planning conditions:

- Types of planning condition
- The importance of clear wording
- Applications to remove or vary a condition in a planning permission.
- Enforcement for breach of a condition
- Appeal against a planning condition

The following case studies may be used in demonstrating when to use Planning conditions

(a) should an agricultural occupancy condition be applied in granting planning permission for a rural dwelling?

(b) should a condition be applied for specific sight lines coming out of a vehicular access to a proposed business even if neighbours claim that they own the land required for the sight lines?

(c) an appeal against a condition restricting hours of opening of a motorcycle racetrack

(d) an appeal against a car parking condition for a commercial development which is viewed by the applicant as unreasonable.

Questions and Answers

Planning agreements:

- The law and any relevant guidance
- What are the practical issues in getting timely agreements prepared?
- Avoiding delays
- When can they be removed?

The following case studies of recent planning agreements may be considered:

(a) financial contributions from developers of student accommodation in Belfast City Centre

(b) financial contributions to off -site road infrastructure for edge of centre retailing park

(c) Getting a planning agreement removed/amended at Belfast City Airport

Questions and Answers

The essentials of law and policy relation to enforcement:

- Understanding the legislation, regional policy, advice and case law
- The importance of ethical leadership

- Making an appropriate response to unauthorised development in the context of Council resources and reputation
- When is enforcement out of time?
- What can go wrong in enforcement cases?
- Planning Committee procedures for enforcement decisions (and for drawing up the Council's own enforcement policy)
- Balancing the proper arguments for and against the enforcement case.

The following case studies may be used in demonstrating enforcement of cases in Scotland, England and N Ireland

- Unauthorised car sales in former countryside barn
- Change of use of inner city dwelling to multiple occupation
- Non-compliance with a planning condition in major new mixed-use development
- Unauthorised extension to village dwelling

Module 4- Understanding the statutory appeal system and best-practice and how to present effectively as a civic leader

Date: 23rd February 2024, 2-4.30pm, Digital / Online

Delivered by: Pamela O'Donnell

Content:

The various types of appeals and the role of council officers and councillors:

- Managing the process – Planning Committee best practice
- The role of the Planning Appeals Commission
- Presenting the Council's case on appeal – officers and Councillors
- Effective communication for leadership -The leadership qualities needed as an effective communicator
- Dealing with lobbying by appellants and third parties
- Decisions by the Planning Appeals Commission and their repercussions
- Avoiding Award of Costs by the PAC

The following case studies may be used in demonstrating appeal cases in Northern Ireland

- (a) hot food bar in small parade of shops
- (b) demolition and new house in a Conservation Area
- (c) out of town centre retail development
- (d) infill dwelling in AONB part of the countryside

Questions and Answers

Mock Planning Appeal with role play by delegates

- Briefing material to be given to Councillors several weeks in advance
- Each Councillor to play a different role in the appeal,
- Outcomes and behaviours to be evaluated by the group.

Module 5 – Maladministration charges to the Ombudsmen and the judicial review of planning decisions

Date: 29th March 2024, 2-4.30pm, In-person, Venue tbc

Delivered by: William Orbinson QC and Diana Fitzsimons

Content:

The different types of challenges by individuals or groups and possible outcomes:

- To the Courts for a Judicial Review
- To Local Government Ombudsman
- To Public Services Ombudsman

Questions and Answers

How Councillors and Councils can avoid maladministration charges related to planning by effectively managing the planning process as demonstrated in the previous modules:

- Examples of breaches of the Code of Conduct and Guidance in planning decisions
- Cases relating to either “actual” or “apparent” bias.
- Cases relating to breach of protocol.
- Pre-determination of the outcome of a planning application by Committee members
- Need to take time to consider all the information pertinent to a decision.
- Duty to give reasons for a decision especially if the Planning Committee makes a decision contrary to the case officer’s recommendation.
- These cases will relate to N Ireland and other parts of the UK.

Outcomes and possible penalties, considering case studies from NI and elsewhere in the UK, such as:

- Quashing of the planning decision
- suspension or disqualification from office of the Councillor
- a prison sentence
- surcharging of Councillors if wilful misconduct found

Questions and Answers

Module 6 – Optional Study Trip to the Republic of Ireland

Date: tba April 2024

The aim of this optional module is to demonstrate best practice in decision making by a Council and its Planning Committee. The Republic of Ireland (RoI) would make an ideal location for course delegates to share experiences with and the proposal is to meet with both Council officials and elected representatives, with site visits to help Programme delegates understand the projects which RoI Councillors are currently debating.

My reasons for choosing Republic of Ireland are:

- The RoI planning system is of suitable in terms of its similarities to the NI system.
- Councils in RoI include areas with medium sized towns, villages, rural hinterland and coast and has planning issues relating to, for example: pressure to expand, environmental designations, deprived communities, conservation, transportation, retailing, social housing, employment and tourism.
- Councils there are regarded as implementing best practice in terms of governance and decision taking.
- We have good connections with several private practices in RoI and through them with the Council which will facilitate the study visit.

Programme Facilitators:

Ann McCullagh, Head of Planning, Ards and North Down Borough Council

Dr Gavan Rafferty, Senior Lecturer in Built Environment, Ulster University

Rosemary Daly, The Planning Appeals Commission

William Orbinson KC

Diana Fitzsimons, Planning Consultant and Visiting Professor Ulster University

Pamela O'Donnell, Principal Commissioner Planning Appeals Commission

Guest Speakers

Emma Kelly, Associate Director Turley

Kim Weir, Community Planning Officer, Fermanagh and Omagh District Council

Susan Wilkin, Deputy Director, Department for Infrastructure

Paul Duffy, Head of Planning and Building Control, Mid and East Antrim Borough Council

Philip Stinson, Director Turley

Conor Hughes, Head of Service for Planning and Capital Development