



Northern Ireland  
Assembly

Committee for the Environment

# OFFICIAL REPORT (Hansard)

Ministerial Briefing

4 December 2014

# NORTHERN IRELAND ASSEMBLY

## Committee for the Environment

### Ministerial Briefing

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**Members present for all or part of the proceedings:**

Ms Anna Lo (Chairperson)  
Mrs Pam Cameron (Deputy Chairperson)  
Mr Cathal Boylan  
Mr Colum Eastwood  
Mr Alban Maginness  
Mr Ian McCrea  
Mr Barry McElduff  
Mr Ian Milne  
Mrs Sandra Overend  
Mr Peter Weir

**Witnesses:**

Mr Durkan	Minister of the Environment
Mr Iain Greenway	Department of the Environment
Mr Angus Kerr	Department of the Environment
Ms Linda MacHugh	Department of the Environment

**The Chairperson (Ms Lo):** I welcome the Minister, Iain Greenway, Linda MacHugh and Angus Kerr. You are all very welcome. Minister, thank you for coming. I think we have sent you the list that Members wish to discuss with you. Maybe we can go down the list, Minister?

**Mr Durkan (The Minister of the Environment):** You are in the Chair, and I am happy to go whatever way you want with this. I have seen the list of agenda items that the Committee would like to discuss. I am happy to take questions on any of those issues and on any other issues that may have arisen between the list being compiled and now.

**The Chairperson (Ms Lo):** On the road safety issue, we quickly looked over the response we are going to send to the Committee for Finance and Personnel. Road safety is a big priority for this Committee. We all know about the increase this year compared with last year in fatalities and serious injuries, but we are hearing now that there may not be money for the TV campaign and there may be reductions in road safety education in schools. Is this one of the top priorities for you?

**Mr Durkan:** Road safety is a priority for this Committee, and I can assure the Committee that it is a priority for me. I would like to think it is also a priority for the Assembly. However, you have seen our paper in response to the draft Budget and I await your response to the consultation on that paper. We are going to have an extremely reduced pot of money with which to do

things and we are going to have to look at what we prioritise in terms of what we do and how much we can still afford to spend on those priorities.

What is inevitable is that we are going to have much less money to spend on road safety; in fact, by some calculations, we had £1.2 million to spend on all our departmental functions, whereas the current spend on road safety is £1.8 million, so there are some extremely difficult decisions to be made. We have to be more innovative and creative in how we spend the little money that we have but, again, I want to reassure you that road safety is a priority for me.

**The Chairperson (Ms Lo):** Are you going to get money through bidding or how are you going to make up that money? You mentioned £1.8 million. Is there going to be a big demand on the budget?

**Mr Durkan:** Currently, that is not even in the budget so, obviously, it is going to be extremely difficult. Like I said, we are going to need to be very creative and innovative. There is a lot of work to be done with our road safety partners in other Departments, such as Justice and the DRD, and also in the enforcement agency, the PSNI. We have to look at what resources each organisation is spending in terms of road safety and road safety enforcement and at how we can best work together to maximise our output and minimise fatalities and casualties on our roads.

**The Chairperson (Ms Lo):** Previously, some production costs had been shared by the Republic of Ireland — on seat belts and different things. Is sharing some costs with them an avenue we can look at?

**Mr Durkan:** I am aware that that has been done in the past and I am certainly not averse to working with our counterparts in the Republic on any issue, especially on road safety. We obviously share roads. Living in a border constituency, I am well aware of how many people drive across the border daily, into and out of both jurisdictions.

In the past couple of years, the sharing has not been going on. I think that is largely attributable to the fact that our respective Departments have identified different priorities or different campaigns. However, I envisage an opportunity for this kind of collaboration over the next few months, as the Road Traffic (Amendment) Bill progresses, hopefully, and we see our drink-driving limit reduced, which will bring it to the same level as the limit in the Republic of Ireland. That would create a good opportunity for us to do a joint piece of work.

**The Chairperson (Ms Lo):** Apart from advertising on road safety issues, you still have to advertise the new measures to be brought in by the new road safety Bill. Have you money for doing any type of advertising communication to the public?

**Mr Durkan:** It is vital that we inform the public of legislation otherwise the legislation will be no good.

**The Chairperson (Ms Lo):** There was a very good communication campaign when the Carrier Bags Bill was being put forward to the public.

**Mr Durkan:** As I said, we are well aware of the challenges that face us. We would rather not have to face them, but I am sure every Minister appearing before his or her Committee is in a similarly difficult position. However, I must reiterate that the DOE budget has, in percentage terms, been subject to the most severe cut of all the Departments. We are ready to face that challenge, but will need the help and support of you as a Committee to do so.

**Mr Boylan:** You are very welcome, Minister, and thank you very much for that explanation. I do not think you will see any opposition in the Committee to supporting you on the road safety budget. You have agreed that it is a priority for you and we have supported road safety bids that you put in during monitoring rounds. You are talking about a budget of £1.8 million and there is a cost of roughly, on average, £1.4 million per road death or fatality, so when we add up the figures, it is important that we look to bring forward whatever measures will reduce road fatalities — unfortunately, this year we have seen an increase in that respect.

Given that this issue is a priority, Minister, have you looked right across the board in your Department to see where you could make up the shortfall, bearing in mind that you will, I think, get the support of the Committee for any bids that you put forward for the road safety budget? Have you looked across the Department to see where you could make up that shortfall?

**Mr Durkan:** Clearly, we have been looking right across each area in the Department — down the back of every sofa in the Department — and it is not easy. The Department discharges other functions, which it must do. While road safety is clearly a priority for the Committee, we are not called the Department for road safety; we are the Department of the Environment and there are other issues that we need to work on. Realistically, I could not put every penny in the Department into road safety.

One thing struck me as you were chatting, Cathal, and that was about our current spend on road safety advertising. There have been production costs for different education and information campaigns. This year, we had a couple of them. We did a cycling one that cost maybe £300,000 to produce, and then there was — I do not know whether to call it the celebrated or notorious — classroom ad campaign, which cost in the region of half a million pounds to produce. Significant costs are associated with securing airtime for these ads as well.

Apart from the information that, as the Chair pointed out, we have to get out about the new measures coming into play following, hopefully, the successful passage of the Road Traffic (Amendment) Bill, we need to look at, maybe, new advertising. However, that is not to say that we will not be able to secure airtime and maybe look at ad campaigns that have been successful in the past — ads that have been successful — and reintroduce them.

**The Chairperson (Ms Lo):** Do you mean just tweaking them?

**Mr Durkan:** Literally.

**The Chairperson (Ms Lo):** The next issue, which has been talked about in the last while by Members, is the concern about training for councils. You are preparing for the transfer of planning to councils, and we believe there are training courses at the moment for councillors. I think there have been some concerns about the quality and timeliness of training and I just want to ask you for your comments.

First of all, is there enough money for training, and secondly, is it the right format to train the councillors? We understand that people were just getting guidelines and legislation, and told, “Here you are.” I think people maybe want more practical guidance — hand held, if you like: maybe case studies and looking at step-by-step practice; really looking at how to go about doing things, rather than to be given information and told, “Here you are, go and read them” — that sort of training.

Who at the moment is doing the training? Are planners doing it? Do they know how to go about imparting knowledge to people? I know people could be very good at doing their jobs, but to ask them to go and train up someone else needs someone to do it — are they the right people to do it?

**Mr Durkan:** The capacity building of and for councillors is extremely important as we count down to the transfer of functions on 1 April next year and the area that most people have the greatest concern about, whether they are MLAs, whether they are you as a Committee, whether they are councillors themselves or whether they are the public as a whole, is the area of planning. That is where they are concerned that the capacity might not exist within councils and councillors come 1 April next year, after vesting day.

My Department is running a comprehensive capacity government training programme for councillors consisting of four sessions. The first three sessions covered an overview of planning, development plans and working within the community, and practical planning, and have now been completed. Session four, on propriety and outcomes, is due to commence, I think, today.

**The Chairperson (Ms Lo):** Sorry; what is section four?

**Mr Durkan:** Section four is on propriety and outcomes. It is due to commence today and will cover, in the main, application of the councillors’ code of conduct, which is extremely important in relation to planning matters.

Training for planners on the new two-tier planning system, will roll out from next month. That is not the only training that councillors are getting and it is not all coming from the Department. Different councils are doing different things, and I have heard different feedback from different councils, councillors and council areas. I know some have gone on study visits, if you like, to see how planning committees work in other jurisdictions, and I have had positive feedback from those who have done that.

The way that councillors are getting more of an insight into the process is not through talking with or listening to planners, but by talking to fellow councillors, who are exercising these duties. They are able to flag up what they see as strengths in doing so, what they see as weaknesses and what they see as potential pitfalls. I think that is important and it seems to have been well received by councillors who have availed themselves of those types of trips — and by councils who have — although I know they came in for some criticism in the media for spending money doing so.

I think it is very important that we build not just the competence of councillors with the function of planning, but that we build the confidence of our councillors to do so, and the confidence of communities in councillors to do so. In terms of practical training, I know in some councils they did role play and one of them had mock planning committee meetings, where they thought up scenarios; for example, you are about to go into a committee meeting and you get a phone call from your cousin who is building a house or objecting to a house: what would you do?

I think that type of practical assistance and role play is very useful as well. However, nothing will prepare councillors for this role like actually doing it themselves and that is why I think it is important to emphasise that they are not going to be cast adrift come 1 April. The Department will retain an oversight role. We will be holding the hands of councils and councillors, but without cuffing their hands. They have to learn to walk before they can run and we will be there to guide them on the journey.

**The Chairperson (Ms Lo):** I suppose, understandably, there is some nervousness — they have never done it before, it is a very important responsibility and they want to be well prepared for it.

**Mr Durkan:** Without a doubt. I remember, on Derry City Council, at planning committee meetings, sometimes colleagues of mine would rub their hands whenever the planners were making a decision that they didn't like and say, "Wait till we get you in here". Now it is more, "We don't want planning". There is a realisation that with power comes great responsibility. It is vitally important and I assure you that we are doing as much as we can to ensure that they are capable of discharging that responsibility.

You asked about the budget. My predecessor did secure from the Executive some £3.6 million for capacity building for councillors. I am not sure how each council is dealing with spending their portion of that money, but I do know that any with which I have been in contact view the planning aspect of the training as extremely important.

**The Chairperson (Ms Lo):** As a slight aside, I recently got an email and there is still some confusion. You have the two-tier, the article 32 and then the local councils — you have the major and the minor applications and people are still unsure about the major applications. Are they all going to be for local councils or might some of them move up to the strategic team in the Department?

**Mr Durkan:** Regionally significant applications will still be dealt with centrally by the top team, if you like, and ultimately decided by the Minister. However, major and minor applications will be dealt with by councils and should be dealt with by councils. I did say the Department will have an oversight role and there is a possibility — hopefully, not a probability — that, occasionally, decisions will be called in by the Department. There might be something that, on the face of it, does not initially appear to be regionally significant but, in the course of processing the application, new information is unearthed that means that it is then deemed worth being called in. That does not mean we would call something in just because it is controversial. Councils and councillors are going to have to learn to deal with taking difficult decisions.

**The Chairperson (Ms Lo):** The uncertainty surrounds the ban on "major". Is it clear enough to councillors that those in the major category should stay with the council and not be moved up to the Department?

**Mr Durkan:** Again, it's not stipulated as to what's what and it will be decided upon application by application.

**Mr Angus Kerr (Department of the Environment):** The subordinate legislation which has come before the Committee sets out exactly where those thresholds are. If you're above the threshold, you're regionally significant —

**The Chairperson (Ms Lo):** That is money-wise, presumably? It is based on the size of the project?

**Mr Kerr:** It is really on how big the project is, what its impact is considered to be, whether it is a regional-sized project or more local.

**Mr Durkan:** It could be a novel application: fracking, for example, is an application we have not received before and because it is so new it would be deemed regionally significant.

**Mr Weir:** The criticism I have heard from councillors has tended to centre on the training. A wide range of topics is covered — there is no doubt about that. You mentioned, for instance, that some councils have paid internally for it. The problem that has been put to me is that people have faced a large amount of PowerPoint and not enough direct hands-on. I know that a couple of councils have done role play and that sort of thing. The problem is that they are not seeing Ministers. That is patchy because of where it is done and obviously they are not seeing that coming from the Department.

You mentioned that people will not ultimately be able to walk through this until the powers are there. I suppose my concern, a little bit, is that this is an almost academic exercise. The problem is that if people have not had sufficient direct or practical preparation, the danger is that they will learn, possibly on the basis of the first legal case that is taken against the council, or the first time where somebody inadvertently — because they do not have a full enough grasp or understanding of things — breaches a code of conduct and finds themselves in hot water.

**Mr Durkan:** That could never happen.

**Mr Weir:** From that point of view — that it could never happen or whatever — I know it is slightly tongue in cheek, but the problem is that we are better off trying to head off those problems before they happen.

I am encouraged, because I appreciate that there is still at least a little window of opportunity in terms of training. The role play-type stuff cannot simply be left to the councils. I would suggest that some officials gear the training towards a number of sessions, where it is effectively more or less a mock council meeting. If you have a range of issues, you can see how people tackle them and offer a critique, saying, “Look, here’s where you ran into a mistake” or “You handled that well”, or whatever. People will get a wee bit more confidence if they see the thing working out practically. I think it would be a lot better if it were done in a few dry runs: there is a relatively limited time, but I would urge the Department to re-gear what training it has in the latter stages and try to focus on something of that nature.

**Mr Durkan:** I think that is a fair enough suggestion or proposal. While it is important for councils to have autonomy in deciding what programmes they think will work best for them, it is important that we see what is working best for councils as well, and at least nudge those who are not doing that in the right direction. As I was saying, in respect of all that we have done and are doing on capacity building and training, I am certainly happy to take on board any constructive criticism or positive suggestions as to how it can be improved. I would be happy for my officials to engage directly with the councils or through the Northern Ireland Local Government Association (NILGA) as a matter of urgency.

**Mr Boylan:** A few points have been raised with me in relation to pre-application discussions (PADs). Obviously, it is down to the type of application, but how early will the community be involved in that process? Will it be at the very start of the process and will councillors act on their behalf? We need some clarification on that, because it has come up in some of the training. People are definitely concerned. I take it that we are still on for neighbour notification, which is particularly important.

One other point in terms of flexibility for councils making decisions, I take it that the decisions will be made compliant with the policies. Angus said that there will be a wee bit of flexibility given to councils to make a decision. I can see councillors, especially in rural planning, getting into overturning a decision. Is that the flexibility we are talking about or are we still sticking with compliance with policy? There needs to be a clear line on that.

**Mr Durkan:** As regards PADs, or pre-application discussions, we would like to see more emphasis on them, particularly for major and regionally significant applications, and also guidelines issued on pre-application community consultations, to which I think you refer. It is important to sell the advantages

of this to communities and those with a potential interest in a development. We should sell the benefits of early discourse with communities to developers and applicants as well and demonstrate to them how that can ensure — maybe not a smooth passage — a smoother passage for their application. If they can address the concerns of a community early — if they are made aware of such things before putting in the application — they can perhaps address them before putting the application in. I would like that to be the case.

It is very much a matter of courtesy at the moment, but we are increasingly seeing and hearing from developers who are choosing to go down this route without being forced to do so, which may be seen as a form of trust in the relationship with communities. If they can address concerns pre-application, that means that there will be no drip feed of objections coming in whenever the actual application is made, and it can be part of the formal process. Having to respond as a Department to each and every objection letter that comes in is more resource intensive for the Department than having pre-application discussions and getting problems ironed out before accepting an application.

One issue — I am just floating this now — with pre-application discussions is that some of them are very intensive. They are more than just a chat and a cup of coffee around a table. Sometimes you might have five or six pre-application discussions with an applicant if there are statutory consultees, such as the Roads Service or the Northern Ireland Environment Agency. While it speeds up the process once the actual application comes in, given the budgetary difficulties in the Department, we may need to look at attaching a fee to that at some stage in future. I have not said that to any of these guys yet. *[Laughter.]*

**Mr Boylan:** Minister, the reason I brought the question up is because most of the challenges that I have seen over the last number of years are about whether the business case stacks up, especially on job creation. I heard recently from councillors on the training and they have concerns. I believe that the earlier people participating and those coming down the tracks. In terms of flexibility for councillors to make decisions, is there any?

**Mr Durkan:** Sorry, I did not mean to ignore that one, Cathal. It is not dissimilar to my earlier answer about the need for different councils to have autonomy. Obviously, different councils will have their own unique and specific circumstances and needs. Part of the beauty of transferring the function of planning to local government is that locally elected representatives will know the local needs and will be able to respond to them in a way that maybe the DOE sometimes cannot. There will obviously be overarching planning policy. The strategic planning policy statement (SPPS), which we will come on to later this morning, will ultimately be that overarching policy. That is why it is so important that we enshrine flexibility within that overarching policy to enable councils to be responsive to their own local needs.

**The Chairperson (Ms Lo):** Minister, I am aware that you have limited time, so we will move on to the next item, which is taxi legislation. We all want to know about the progress on the single-tier issue. Members decided in October not to agree that the Department go ahead with the a number of statutory rules (SRs). Are you still going ahead with the single tier without including an exclusion zone in Belfast?

**Mr Durkan:** The last time I addressed the Committee was last June, so I am sorry that it has been so long since my last confession. Since then, my officials have held a series of meetings with a wide variety of stakeholders from the taxi industry. The common message coming across loud and clear is that the continuing uncertainty is detrimental to the operation of their businesses. I very much recognise that the decisions I take impact on businesses as well. As much as possible, I want to avoid further uncertainty.

I am conscious of the organisations outside of the taxi industry that have contacted me in support of the single-tier licensing model, including Belfast as well as the North — maybe even especially Belfast, because that is where the problem is. Significant progress has been made in the last few months, bar the Committee's position in October, but I fully intend to stay on course with my proposals to establish a single tier.

**The Chairperson (Ms Lo):** Without the—if I say it bluntly—agreement from the two major parties, how are you going to get over that?

**Mr Durkan:** Someone used the term “duopoly” here when talking about the taxi industry. It is not even parties: any Member of the Assembly has an opportunity to lay a prayer of annulment once I lay the

regulations. I hope to lay the regulations within the next week. Don't worry — it is not a scam to catch you over Christmas. Once the regulations are laid, any Member will have 10 plenary days during which they can lay that prayer of annulment. That could take us up to February. A debate would be scheduled thereafter, and the Assembly can vote on it.

**The Chairperson (Ms Lo):** If that went through, have you a plan B? What will happen?

**Mr Durkan:** What will happen if there is a plan B, if we need a plan B? I am conscious that we spent a long time talking about road safety and what we can do to reduce collisions on our roads, but we seem to be firmly on course for collision on taxi legislation. This is not something of my invention or creation. This legislation has been round and round this Committee and the Assembly Chamber for six or seven years.

**The Chairperson (Ms Lo):** Since 2008.

**Mr Durkan:** The continued uncertainty is damaging the industry and creating increased confusion among the public. If we bring it to a vote and I am voted down, we will have to go back to the drawing board, but at least it will provide some certainty in the short to medium term that currently does not exist.

**Mr Weir:** Minister, that is maybe not entirely the correct response. There may well be certainty provided, but it may not be the certainty that you are looking for in that regard.

**Mr Durkan:** It might be the certainty that you are looking for, though.

**Mr Weir:** We shall see. From that point of view, I am a little disappointed that we have not been able to reach a situation. This has been rumbling on for well over a year, as I think was raised in the Committee. There are two points that I want to clarify. You say that you will lay the regulations in the next week or so, but there is presumably then the opportunity for any member of the Committee, for example, to take a particular position on that and bring it to the Assembly. That is from a procedural point of view. On a related issue that has been raised, your position is that you hope that this goes through and so on: where are we then on the timing of the issue of taximetering? Again, one of the issues raised with me is the fact that the single tier seems to be jumping ahead of all the taximetering side of it. I suspect that that may not be the case, because stage 1 may not reach that, but that is a different point.

**Mr Durkan:** In the timeline that I outlined on my last visit to the Committee, single tier was going to come in in January, and we would not have seen the metering until September. I know that concerns were raised by Cathal and his colleague Jennifer McCann about the gap that existed between those things happening. I can, I suppose, give some consolation to the Committee today: that gap will now be closed. We do not see single tier coming in until June, but metering will still come in in September, if all goes according to plan.

**Mr Weir:** As for that last revelation—first of all, even if the timetable was reached, there is still a gap in that regard. The gap might be closed. The reference you just made to seeing single tier potentially coming in in June is a bit of a revelation, because up until now you have talked about January being the —

**Mr Durkan:** Yes, but if I lay the regulations and someone lays a prayer of annulment, you then might have to wait three or even possibly four weeks for a debate and to vote in the Chamber. I am allowing for the legislative process and for more time for the industry themselves and the staff to prepare.

**Mr Weir:** I urge you to think again in terms of how you are bringing this forward. Yes, you may want certainty, but it may be better to have the certainty of something where you can get greater buy-in in that regard. You may have to look at plan B in that regard. I am a little disappointed at the way things have gone until now, but I suspect that we will be coming back to this in the future.

**Mr Durkan:** No doubt.

**The Chairperson (Ms Lo):** What is the timetable now? June will be single-tier, then September for metering. Will it be the following January for production of receipts?

**Mr Durkan:** No, that will be September as well.

**The Chairperson (Ms Lo):** Metering is September?

**Mr Durkan:** For taximeters, printers and maximum fare, we are talking 30 September.

**The Chairperson (Ms Lo):** OK, because I recall that previously we said, yes, we will have the metering but production of receipts — paper receipts — could be delayed for a few months. Is that correct?

**Mr Durkan:** Yes. The metering and the printers.

**The Chairperson (Ms Lo):** Are both coming on board in September at the same time?

**Mr Durkan:** Yes, hopefully — if all goes according to plan.

**Mr Boylan:** I am very disappointed, Minister, to be honest. Moving on to plan B, I would like to tease it out in terms of single tier — really it is only a Belfast issue. Can you enlighten us as to what will happen when we vote against this next February, or whenever it comes through. What is the plan B?

**Mr Durkan:** All will be revealed when we get there, but I am hopeful that we don't. I think someone in this Committee said before that this wasn't just about Belfast, it was about all of the North — I can't remember exactly who that was, but I think he is sitting next to Colum Eastwood — in an effort to get this legislation squared up.

**Mr Boylan:** Yes, Minister, but we also put in a review in the legislation. It is across the North. If any other city says that it wants to go with a two-tier system, it is entitled to do that. We believe that the single-tier system will operate right across the North and in Belfast, but if Derry and Newry want to operate as a two-tier system, that is grand — let them do that. We have been round it and you have inherited it, but it is up to you to step up to the plate and deal with it. You know what the issues are.

**Mr Durkan:** That is precisely what I am trying to do.

**Mr Boylan:** It is all right talking. We have all seen what happened in the past. A two-year review will be built into the legislation. We have seen what is going to happen if the single tier is introduced. It is complicated, and it is just disappointing that we are going to have to vote this down and then go to plan B.

**Mr Durkan:** No, no. I don't go seeking confrontation. However, I do want to bring certainty — it might not be the certainty that some quarters want, but I do want to bring this to a close; it has been going on and on.

**Mr Boylan:** It has, yes. So there is no protection for the public sector, public hire? You prefer to see private hire take over the whole system? It is grand, Chair — the Minister is in favour of private hire.

**Mr Durkan:** For any sector or any company the market will more or less decide their fate. If someone is providing a good service and a value for money service, they should not only survive but they should thrive, on a level playing field.

**The Chairperson (Ms Lo):** We should be thinking what is best for the customer, for the citizens of Northern Ireland.

We move now to another question, SPPS. The Minister will agree that we had a very useful presentation from Angus and his team last month on the draft SPPS. There were a number of questions, and I am sure others will be brought forward, but the renewable energy sector was not very happy about the fact that there was no mention in the SPPS of the national policy on renewable energy. The framework was not mentioned, but Angus said at the time that it was not a problem to mention it in the SPPS, so are you going to put it in? Is the presumption in favour of development for renewable energy being taken out of the SPPS? That is not just on wind turbines but other types of

renewable energy. Can we have an answer on that, please? Sorry, that might be too much detail as you were not involved in that last meeting.

**Mr Durkan:** The draft SPPS went out for public consultation. I believe there were 700 responses, and PPS 18 was certainly one of the more thumbed chapters in the document and one that was of particular interest throughout the responses subsequent to the publication. Issues have been raised largely from the renewables industry. I have had one or two meetings, and I expect to have three or four more with those who have concerns. I have no doubt — it was a view expressed around this Committee table — that PPS 18 might have needed tightening. However, the feeling coming from the industry is that it has not been tightened so much as strangled by our amendments to the policy. That is certainly something that we have to take back and consider carefully, particularly given the Programme for Government targets and other targets laid on us as the Government as regards our obligations on renewable energy.

I am conscious of the Committee's ongoing work on wind energy and that I would like to have an opportunity to consider it prior to the final publication of this draft SPPS. It would be daft for me to ignore work that has been commissioned by the Committee and that you have spent time on and put so much effort into. I look forward to seeing that and possibly factoring it into the final SPPS in terms of renewable energy policy.

The issue currently — this creates a problem not just for communities and objectors to wind farms but for some of my planning officials—is the weight attached to wider economic and environmental benefit. This currently outweighs any other consideration, even in areas of outstanding natural beauty or of special scientific interest, and there need to be some safeguards or checks put in place for that. We, as a Department, do not go out with a presumption against development, but occasionally we will feel that the wind farm application is not right, nor is it in the right place, and then we proceed to issue a refusal. I would say nine times out of 10 or 99 times out of 100, if that goes to appeal, we will lose because of how the policy is currently framed.

**The Chairperson (Ms Lo):** Yes, you need that tightened so that it is easier for everyone to understand where they stand.

**Mr Durkan:** We understand pretty clearly where we stand currently; the planners understand. Communities are beginning to understand where they stand, but it is not a very good place that they are starting from.

**The Chairperson (Ms Lo):** If there is a clearer definition and measures in the SPPS, developers themselves will know before they embark on spending lots of money on doing their business case or environmental impact assessment.

I know that Barry has a burning question about rural dwellings.

**Mr McElduff:** I am very interested in rural planning, because these issues are brought to my attention every week in life by people who feel that planning policy does not meet their requirements and does not reflect the character of their area. The last meeting of that character was last night at 7.00 pm with a young couple who hope to secure planning permission to build—what a crime—a house in the country.

In bringing forward the strategic planning policy statement, the Department should take an opportunity to give a nod in the direction of a presumption in favour of building in the countryside, subject to siting and integration-type criteria. There should be a change in direction, I believe, even if that means ministerial intervention or direction. Are the Minister and his senior advisers considering that, to meet the need of rural communities and non-farming rural dwellers in particular? Might the Department move in a slightly different direction and take the opportunity of a policy review to give a nod or even to give direction that councils will be able to accommodate people — not unreasonably, not a free-for-all, but subject to siting and integration criteria?

**Mr Durkan:** This issue is brought to my attention every week in life as well. In responding to Cathal Boylan earlier, I spoke about the opportunity that SPPS gives us to create flexibility, flexibility that you and the people you represent feel does not currently exist. I am keen that we avail ourselves of any opportunity. I always say that the SPPS is not merely the consolidation of existing policy but an opportunity to improve policy. This issue has been raised by you and by colleagues from all parties, and it is something that I am keen to address.

Ultimately, as outlined earlier, councils will be the decision-makers in these applications, so it is up to us as a Department to afford them that flexibility when finalising the SPPS, so that, when it comes to them drawing up their local development plans, they can take local needs and factors into consideration. Obviously, some council areas are more rural than others. Demand for housing in rural areas would be greater in some areas than others. That is something that we should be able to accommodate. The only problem is that the more people who build houses in the countryside, the harder it will be to get wind farms up.

**Mr McElduff:** I am happy enough for now, Chair, if you wish to proceed. *[Laughter.]*

**The Chairperson (Ms Lo):** Minister, I know you said that you wanted to take into account the Committee's report on wind turbines before you finalised the SPPS. You need to finalise it. You need to publish it before 1 April. Are you on track?

**Mr Durkan:** I had pledged to do so before the end of this calendar year. It is not going to be by the end of this year now, but I very much intend and expect it to be by the end of January. It just depends on you getting that report out.

**The Chairperson (Ms Lo):** Our report should be ready beginning of January.

**Mr Durkan:** OK, I will look forward to it. It is important that it is right, not rushed.

**Mr Boylan:** I appreciate the Minister's answer to Mr McElduff. In a similar vein—this is why I asked for flexibility earlier on—it will be very difficult, in the case of a non-farming rural dweller. That is why I asked you this: are you saying now that you are giving councils the authority to overturn? They will have to overturn a decision and would go against compliance with the policy at this time. I would prefer to see something in the policy itself, criteria that would facilitate the non-farming rural community. We need clarity on how exactly — I am trying to figure this out. If you say they can be facilitated under the local development plan, they allocate a number of houses for that area. That is grand. Clearly, what you are saying is that it is not site-specific or anything else; it is just individuals planning to live in a certain area. That will be very difficult.

**Mr Durkan:** That is true, but you have to do that as well for urban dwellers. Just because I want to live beside someone, that does not necessarily mean that I can. It does not necessarily mean that I would want to either *[Laughter.]*

**Mr Boylan:** Obviously, that is your personal choice, Minister. The reality is that designating urban settlements is slightly different. What I am talking about is single sites in the countryside. It will be very difficult. That is what I am trying to nail down — exactly what criteria there are. You are saying today that you will allow the flexibility for local development plans to facilitate rural dwellers who want to live in the countryside.

**Mr Durkan:** Our work on this is not finalised. I have outlined before here and in answer to numerous Assembly questions the work that had been done by my predecessor, prior to and subsequent to his review of the workings of PPS and the difficulty of establishing a group of non-farm rural dwellers. As soon as someone moves into a rural area there are rules. There are rules in other jurisdictions as to what they do. It is very difficult if you want to go down the kinship route, for example. That has been the experience in other jurisdictions as well. In the Republic of Ireland, they have found that particularly difficult.

**Mr Boylan:** What about occupancy tie and things like that, if your occupancy is tied to a building? There are other areas.

**Mr Kerr:** You would need to define the occupancy condition. Traditionally we have used occupancy conditions for farmers building in the green belt and so on. It is quite an easily definable group. The issue that the Minister referred to of trying to define a non-farm rural dweller, particularly in Northern Ireland, where most people have links to the rural community even if they live in a town or city, is very problematic.

**Mr Boylan:** I will finish on this point. We were talking about sustainability, and sustainability for rural communities. We know that 80% of the people who live in the countryside are non-farm rural dwellers.

How are we going to sustain this? This issue has been ongoing for a number of years. I take it on board, Minister, that you said flexibility.

**Mr Durkan:** I would point to the flexibility, if people do not see PPS 21 as being permissive. Statistically, if you look at the approval rate for dwellings in the countryside over the last three years, it is over 90%, which indicates that there are —

**Mr McElduff:** That is because nobody is applying, because nobody knows whether they will get permission. It might be 90% approval, but —

**Mr Durkan:** There were over 7,000 in the last three years.

**Mr McElduff:** People do not apply. With respect, you heard that from a group of planning advisers who said, "We're not making any of these applications, because they're not going to get through". If we want to be straight, people are not making applications. It is 90% of what?

**Mr Boylan:** The approvals are there on the criteria that are there already: they can be replacement or new builds. That is the biggest majority.

**Mr Durkan:** I am sure that not everyone in the planning profession is so scrupulous that they will not take an application that they do not think they can get passed. I know that there is an issue, and people may not be applying for ones that they think are a beaten docket, basically. I have outlined some of the difficulties we have here. Sustainable development is what we are after, so it is important that we try to give, both in this document and in collaboration with the councils, which will ultimately be the decision makers in a matter of months, a system that allows for that sustainable development.

**Mr I McCrea:** On the wider issue of planning and PPS 21, I know there is a judicial review of a case where there was clustering to a group of buildings, and it turned on the definition of "a group of buildings". Planning permission had been approved for one agricultural building, rather than "buildings", as it was referred to. I know that planning have now reconsidered that position. Have you given any consideration to the definition, and making it defined within the policy, rather than it being left to each individual area to consider whether they class it as one, two, three or four? A number of applications are approved with one agricultural building, then a house is allowed to be approved in that sense, but given that this case is now going through the courts and that planners are now looking at it from the perspective of two or more, how does that fit? I know you cannot go backwards, but given that a precedent has been set through judicial review, have you looked at that and are you considering amending it?

**Mr Durkan:** The issue of clustering has come up previously. The policy includes a provision for dwellings on farms — not a cluster, but buildings or groups of buildings. Where there are independently verifiable reports, maybe from the Health and Safety Executive or medical professionals, there have not been good reasons as to why that cannot be the case. Ultimately, however, we prefer to see clustering, which allows for better integration in rural areas. The one thing we really want to avoid, whether it is in instances to which you refer now, or even any dwellings being built in the countryside, is sprawl. That is what we really don't want to see. It is important that we ensure that, whatever we do with policy and however we may relax it, there are safeguards in place against the type of sprawl that could ruin our countryside, which is a tremendous asset.

**Mr I McCrea:** I think that you can cluster visually, not necessarily with building right on top of each other — I suppose it is the definition specific to the group of buildings. Where it has been considered that one was enough in the past, now the successful legal challenge to an application means that it has to be, as it says, "buildings".

**Mr Durkan:** I do believe that there should be a degree of flexibility and that planners should be allowed to exercise a degree of discretion as well. Obviously, no two sites are identical. They can have different locations, different topographies, and integration might be achievable on one site, where there is just one building, currently, but that might not be achievable on another. Bear in mind that there is, or should always be, a presumption in favour of development. I would like, through the SPPS and the transfer of planning to councils, to give planners — I cannot use the word freedom, I don't want to give them that — a wee bit more discretion on how they approach applications.

**The Chairperson (Ms Lo):** We have discussed our inquiry into wind energy with you, so I am not going to mention that, but I know Alban wants to ask a question on the Department's budget.

**Mr A Maginness:** Thank you, Chair. It has been a very good discussion this morning. The elephant in the room is the Budget. We had a very good, detailed outline of the Budget last week from the permanent secretary, Mr O'Reilly. He painted a fairly grim picture, particularly of the loss of posts in the Department — upwards of 500 — and, in addition, of the impact on local government in relation to rate support and grants for the new councils. I was wondering whether you could give a broad-brush picture of how you feel the Budget will impact on your Department.

**Mr Durkan:** We touched on this a wee bit earlier, Alban, in relation to the impact of budget cuts on road safety spend in particular. It is hard to find the words to describe the position that I find myself in. All Ministers, in fairness, find themselves having tough decisions to make, individually in our Departments and collectively as an Executive.

The DOE budget consists largely of staff costs and grants. That is where the savings or cuts will have to be made. There is absolutely no choice in that. It is not somewhere that I want to be, and I am sure it is not somewhere that any Minister wants to be. It is certainly not where the 500 civil servants we are talking about want to be either. However, there is genuinely no choice in the matter at the moment.

The impact on local government will be pretty severe as well. We are talking about 500 departmental posts. A lot of the grants that come to local government and other agencies through my Department support employment as well, and they have to be cut. That 500 figure could easily rise to 600 jobs as a result of cuts to my budget.

I have asked Simon Hamilton to ring-fence the grants to councils — the de-rating grant and the rates support grant — because DOE is basically a postbox for that money from DFP to the councils. I think we should charge a handling fee, if anything. My worry was — and still is to an extent — that if the transferring functions grant, where Departments transfer functions to councils, is to be filtered through my Department as well, it might be counted in the baseline for DOE's budget against which these cuts are calculated. It is not that bad. That is maybe one silver lining of the fact that DSD was not able to get the Regeneration and Housing Bill over the line. That would have meant an extra £86 million, for example, would have to go from them to local government, potentially via DOE.

I asked Minister Hamilton to ring-fence those grants. He is of the opinion that if he is telling the Police Service and the Fire Service that they are going to have to make and take cuts, local government should share the pain. I have a real problem with the fact that this is going to impact heavily on the rates support grant, which goes primarily to the less well off. The impact of these budget cuts is going to be disproportionately adverse on those who can least afford it. That is something that gives me great cause for concern.

Simon Hamilton was not particularly receptive to my suggestion of ring-fencing. He says that tough decisions need to be made. He said that he would love to be able to tell me what to do with my budget. I said that I would love to be able to tell him what to do with his. *[Laughter.]* It is going to be extremely difficult.

**Mr A Maginness:** Just one point on local government and the commencement of the 11 new super-councils. It strikes me that it is going to be a very bad start for super-councils to have to trim their budgets, possibly to increase rates or alternatively to reduce services and maybe to reduce employment. That is a very bad start to the new councils.

**Mr Durkan:** I agree entirely. They are points that I have made and will continue to make to the Finance Minister and Executive colleagues. It is something that I heard loud and clear from the partnership panel on Tuesday when it held its inaugural meeting. I have to say it was very well attended, and a few other Ministers came along as well. Local government is collectively extremely concerned. I am particularly perturbed at the fact that the impact is going to be disproportionately adverse on those who can least afford it.

**The Chairperson (Ms Lo):** I want to pick up some more points. Minister, you said that apart from the departmental cuts of your own staff, estimated to be 500, cuts could maybe total 600 — and that is from the voluntary sector. Is that right?

**Mr Durkan:** We haven't actually carried out that exercise. That is something that there has not been a consultation on. That is just a summation. I know that for some of the organisations that are funded through the Department and some of the programmes that are funded by local government through grants that come from our Department, even within local government, quite a lot of their employees, particularly around environmental health and building control, are subsidised by money coming from grants from our Department as well, so the impact of this could be colossal.

**The Chairperson (Ms Lo):** I have heard from the voluntary sector that they are very concerned that their grants are going to be cut. Legally, where do you stand if you have given a voluntary organisation a letter of offer to say that they are going to be given three years' budget until 2016, and now you are telling them that they are not getting it next year, or even this year? They are only going to get half of it. Legally, are you not obliged to fulfil the terms in the letter of offer?

**Mr Durkan:** We are engaging on that with the Departmental Solicitor's Office. I am aware of which organisation you are referring to. Obviously, it is a very difficult financial situation. The economic situation is unprecedented. I take no pleasure in going back to tell anyone that the cupboard is bare. We have to check on any commitment given to any organisation. I am not the type of person who makes commitments that they cannot honour. If I am incapable of doing so, it puts me in a very tricky situation indeed.

**The Chairperson (Ms Lo):** I know you have an almost impossible job to deal with the £1.2 million left in your kitty. You have to spread it around for a whole year. Managing services for the whole Department is not an easy job. I know the voluntary sector is very concerned. If they are not going to get any money, they will soon have to tell the staff to go. People can go back to them legally if they have a contract and were told that they would have a job until the next financial year.

**Mr Durkan:** I am aware of the difficult situation that the uncertainty creates not just for that organisation but quite a few organisations.

**The Chairperson (Ms Lo):** Many organisations.

**Mr Durkan:** That happens right across all Departments.

**The Chairperson (Ms Lo):** It is not just your Department. They feel that they are the easy target and that Departments try to save jobs within their own Department.

**Mr Durkan:** They are certainly not an easy target.

**The Chairperson (Ms Lo):** No, the voluntary sector feels that they are an easy target and that, in one stroke, you can say that all the promised grants are not going to happen. I just wonder how fair it is on those organisations, which are doing a lot of front-line services on the behalf of Departments. They are being told, "You will be no more."

**Mr Durkan:** Like I say, I appreciate the difficulty that this creates for many organisations, groups and individuals.

**Mr Boylan:** There have obviously been some concerns about the natural heritage fund and the work of environmental groups and how infraction proceedings would be impacted if the grants were cut. Have you looked at the Challenge fund in any way? Has it come up in talks?

**Mr Durkan:** That is something that I have to look at. Most of the revenue generated through the functions of our Department goes back out on those functions. Anything we get from licensing, for example, is spent on licensing. Anything from permitting is spent on exercising that function. I suppose that we are fortunate that we have the Challenge fund. You can perhaps call it an income stream, but it was put down in statute that it has to be spent on community projects. I believe that we will have to look at it again and be a wee bit creative about how we can perhaps supplement the Department's budget in exercising its functions with the Challenge fund. We actually already do that. This year, for example, for the built heritage grant, which has been there for a long time, I was able to utilise £400,000 of the Challenge fund for community-based built heritage or listed building grants.

**Mr Boylan:** What about the impact on the likes of the RSPB, which is concerned about infraction?

**Mr Durkan:** I am meeting the RSPB very soon on this. It is something that causes great concern. There are things that I would like to prioritise within the Department and then there are things that I have to prioritise.

**The Chairperson (Ms Lo):** With the announcement in Westminster of more money being found for the NHS, we should be getting a proportion of that. Do you think that there may be some easing on the other Departments, which may not see such big cuts? Have you been told that?

**Mr Durkan:** We have an Executive meeting this afternoon, and I look forward to hearing about that and would very much like to hear exactly that. I have spoken quite a bit here today about the need for innovation and enhanced partnership work. It is important that we look at organisations within this jurisdiction that are doing work that we can tie up with and that can perhaps roll-out some of our functions. Beyond here, we can perhaps enhance collaboration with our neighbours in the Republic in order to meet targets and make progress. Even beyond these shores altogether, we are looking at Europe and Horizon 2020 and what opportunities there might be for the environmental sector.

**The Chairperson (Ms Lo):** Although Horizon 2020 is very much for research and development.

**Mr Durkan:** A lot of the work is scientific and would be right up their street.

**The Chairperson (Ms Lo):** Thank you very much, Minister, for spending so much time with us.