



Federation of Small Businesses
The UK's Leading Business Organisation



FSB Northern Ireland Policy Position Paper

The NI Planning System: The Small Business View

About this Series

In 2015, the FSB in Northern Ireland commissioned a series of Policy Position Papers on issues that are of significant concern to our Members.

The purpose of the papers is to set out those concerns, examine and explore each issue as it affects SMEs, to gather and analyse information and to make recommendations for improvement.

We will use the papers, alongside the other activities in our research and policy development programme, to stimulate debate, raise awareness, and ultimately to advocate for our Members as a campaigning and lobbying organisation which not only communicates concerns, but informs the development of practical solutions.

These papers are aimed at policy-makers and decision-takers, and as such we will bring them to the attention of government departments, local councils and councillors, MLAs, MPs and MEPs. We welcome comments and debate, particularly from our Members, our main stakeholders.

As experts in business, we offer our members a wide range of vital business services, including advice, financial expertise, support and a powerful voice in government. Our sole aim is to help smaller businesses achieve their ambitions.

Foreword

Planning is integral to economic development and growth in Northern Ireland, a fact recognised by the Northern Ireland Executive in its Programme for Government for 2011 -15 and in the Northern Ireland Economic Strategy, which promised to “deliver faster and more predictable processing of planning applications” and to “achieve new, more stretching performance targets”.

Planning powers have now been transferred to local government as part of the reform of local government programme, and the single Strategic Planning Policy Statement (SPPS) has finally been published, bringing 20 separate planning statements into one document. However, targets on processing large scale investment planning decisions within six months have slipped in 2014/15, despite improvements in previous years, a potential disincentive to both inward and indigenous investors alike.

Northern Ireland is a small business-led economy, and will continue to be so. Research¹ conducted by the Ulster Business School (UBS) for the FSB indicates that 80% of micro, small and medium sized enterprises intend to grow their business over the next two years, and it also finds that they make a significant contribution to local economic and social well-being, by employing people living locally and contributing to local charities, sport and youth activities.

We must have the drivers in place to encourage and facilitate these growth ambitions in the years ahead.

But planning issues are consistently identified by our members as a major barrier to their development, whether it is change of use, improvements to their premises, the creation of storage facilities, or building new developments. When asked, small businesses indicate they encounter a slow decision making process with little appreciation of the needs of enterprise.

Now that planning powers have transferred to the new councils, it is imperative that the process is smooth, clear, timely, and efficient and offers good value for money - a robust, business-friendly system which reflects the flexibility and speed-led decision making of small businesses.

This report looks at a number of different aspects of the planning system in Northern Ireland, including Local Development Plans (LDPs), performance management, and town-centre-first and renewables policies.

The report makes a total of 19 recommendations, most of which are low-cost and easily implemented and which if adopted, could significantly improve the planning system experience for all Northern Ireland small businesses, thus encouraging economic and community growth.

Wilfred Mitchell OBE
Policy Chairman, FSB NI

¹FSB NI/Ulster Business School (UBS) The contribution of Small Businesses to Northern Ireland (2015) available to download from Northern Ireland Policy section of FSB website.

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Introduction

The planning system is fundamentally important to the success of the private sector. It plays an intrinsic role in delivering investment and creating jobs through ensuring that appropriate opportunities for development are taken forward.

Small businesses, and particularly those in the construction industry, have endured many challenges during the recent economic downturn. This was illustrated by the sharp fall in construction activity across all output areas as well as increased unemployment rates in recent times.

This harsh economic reality has been aggravated by shortcomings within the planning system. FSB members have often expressed their frustration about both the responsiveness of the system and the timescales for decision making; particularly in relation to straightforward change of use and minor works applications which are most common for SMEs.

However, construction figures are showing signs of progress and the current planning context presents clear opportunities for improvement, not least the potential advantages associated with the transfer of planning powers from central Government to the new eleven local councils.

The new statutory requirement for **Pre-Application Community Consultation** for major projects also represents a significant shift in how the views of stakeholders, including those in the business community, will be required to be taken into account.

A new **Strategic Planning Policy Statement (SPPS)** provides a welcome consolidation of previously separate policy publications into one simplified document as well as setting out new policies, such as on town centres and retailing.

Other important issues such as developer contributions for affordable housing and renewables are directly affected by planning policy which is constantly evolving and subject to review.

This paper seeks to explore some of the above areas and proposes a number of recommendations which would give further support to small businesses in dealing with the new planning authorities.

Transfer of Planning Powers to Local Government

The transfer of planning powers to local government and associated reforms represent the biggest change to the Northern Ireland Planning System in over 50 years. There are definite advantages as it improves local democracy and accountability by placing local communities and elected representatives at the forefront of the development management, or decision making, process.



A new hierarchy of developments is now in place in the **planning system** whereby the majority of local and major planning applications will be dealt with by the eleven councils.

A relatively small number of **Regionally Significant Developments (RSD)** will still be determined by the Department of Environment (DoE) who also have the ability to 'call-in' other planning applications which could be considered to have a significant regional impact but do not meet the threshold.²

This is welcome for small businesses as planning applications submitted by them, or affecting them, are most often made by those with a local knowledge of the area as opposed to the previously centralised decision making within the DoE.

Delegation of the majority of smaller, or local, decisions on planning applications to Planning Officers should also lead to a more streamlined process with much greater efficiency than previously was the case. If implemented correctly, this should benefit small businesses.

However, no matter how minor an application is, there may still be statutory consultees who will be asked for comment, such as Transport NI, Environmental Health and NI Water. It is vital that these are issued promptly and within target response times. At the other end of the scale, **Environmental Impact Assessments (EIA)** should be justified, proportionate and affordable for small businesses.

As with any change of this magnitude there will be a 'bedding-in' process, particularly as there are new protocols governing the operation of each council's Planning Committee and new **Schemes of Delegation** that set out which planning applications will usually be devolved down to Officers.

Small businesses want consistency; however, there are currently anomalies between councils across a range of areas as set out in their respective Protocols and Schemes of Delegation.

For example, there is a lack of uniformity in speaking time allowances at Planning Committees in different council areas, with applicants in Fermanagh and Omagh District Council having ten minutes but only three minutes are allowed in a number of other councils such as Antrim and Newtownabbey.

There are also varying rules about how a local application can be 'referred' to a Planning Committee, by a Councillor or because of the number of objections it has received, as opposed to being dealt with by Planning Officers. For example, in Ards and North Down Borough Council, a Councillor has 25 days to 'call-in' an application from the delegated list to be considered by the Planning Committee whereas this is 14 days in Lisburn and Castlereagh City Council. Similarly, if an application has one valid objection in Mid-Ulster Council it is considered by the Planning Committee but there need to be more than five objections in Causeway Coast and Glens Borough Council.

It is vital that small businesses have the confidence to engage with councils right across Northern Ireland and having a uniform approach to Protocols and Schemes of Delegation would help to build that.

² Thresholds for planning applications are set out in the schedule of The Planning (Development Management) Regulations (Northern Ireland) 2015

Recommendation 1:

Planning authorities should ensure that economically important local applications which are delegated to Planning Officers, such as those submitted by small businesses, are expedited as quickly and efficiently as possible, preferably within a ten week timeframe as opposed to 15 weeks.

Recommendation 2:

Planning authorities should ensure that Statutory consultees are responding within the requested target limits to avoid any unnecessary delay.

Recommendation 3:

The DoE should coordinate the eleven councils to amend their protocols governing the operation of Planning Committees and Schemes of Delegation to give greater uniformity across areas such as speaking rights and referral mechanisms.

Recommendation 4:

Environmental Impact Assessments (EIAs) should be justified, proportionate and affordable for small businesses.

Pre-Application Community Consultation

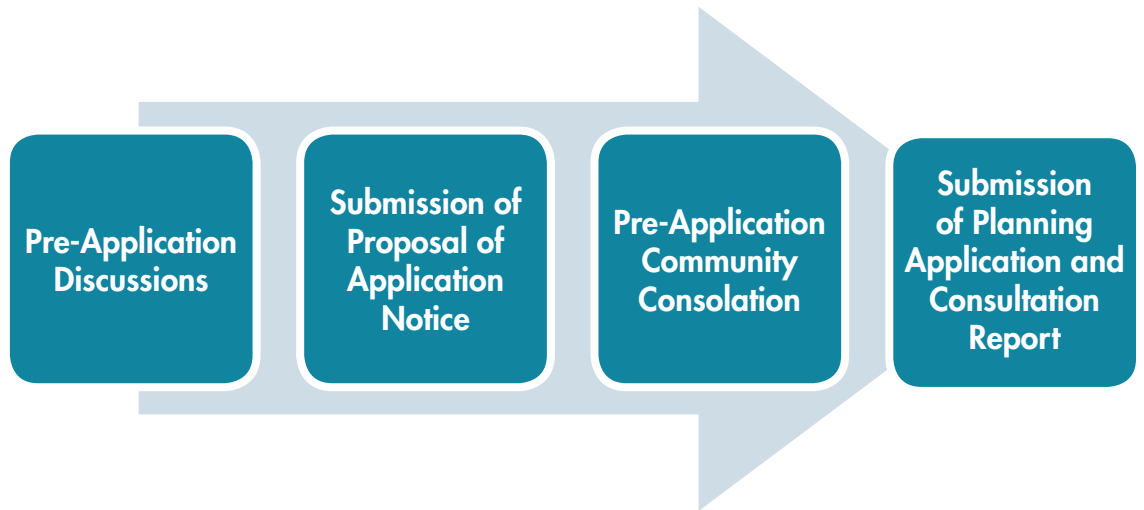
In our view small businesses should get involved in commenting on planning proposals which affect them. The earlier they engage the better as, ideally, opinions will be taken into account before a planning application is actually submitted. This could be through attendance at public events or submitting views in writing.

New legislation means that all major planning applications must include a process of statutory **Pre-Application Community Consultation**.

that have taken place. It should also detail how comments received from the community were responded to, indicating if any changes or mitigating measures have been included in the proposal. If the report is considered unacceptable, the authority has the power to refuse to determine the application.

Businesses could use these new requirements to their advantage to influence development proposals positively, for example, to ensure major development such as transport infrastructure benefits local small businesses in the vicinity as much as possible. There

Figure 2. Pre-Application planning process for major projects



Twelve weeks before submission of the planning application, the applicant is required to provide the planning authority with a **Proposal of Application Notice (PAN)** which must include details of the community consultation proposed to be undertaken by the applicant at pre-application stage.

This leads to the submission of a Pre-Application Community Consultation Report alongside the planning application. The report is an assessment of the quality and extent of consultation activities

is also an onus on planning authorities to guarantee that the business community are being regularly consulted and included as consultees within Proposal of Application Notices.

These changes in how consultation is carried out are symbolic of a new approach to development management where 'front-loading' is encouraged. Put simply, this means that the more issues that can be resolved at pre-application stage, the greater the benefits.

Recommendation 5:

Planning Officers should recommend that an applicant's Proposal of Application Notice sets out how local businesses and business organisations will be consulted during the 12 week pre-application consultation for major projects.

Recommendation 6:

When submitting planning applications, small businesses should be proactively encouraged to engage as early as possible with the relevant planning authority through Pre-Application Discussions.

Local Development Plans (LDPs)

Alongside development management, local Councils also have the responsibility to produce a **Local Development Plan (LDP)** for their area. LDPs will essentially set a vision for the development and use of land within each of the eleven council boundaries.

The production of LDPs is a phased process over a prolonged period of time. There will be three stages estimated to take each council at least 40 months to finalise. A fourth stage includes provisions for 'monitoring and plan review'.

A *fourth stage* includes provisions for '**Monitoring and Plan Review**' and comprises an annual monitoring report from each council to the DoE on achievement of their objectives as well as a review every five years. The DoE can also direct a Council to revise its plan strategy or local policies plan at any time after adoption.³

It is essential that the LDP process is carried out as quickly as possible by each council as stakeholders, such as those in the business community, need to understand the planning policy context of their area.



Figure 3. Summary of Local Development Plan system

The *first stage* is the drafting of a **Preferred Options paper** which should include the overall pattern of new development throughout the relevant area as well as options for planned growth of main settlements and major infrastructure projects.

The *second stage* involves the preparation and adoption of the **Plan Strategy** and must set out the council's objectives in relation to use of land as well as its strategic policies for the implementation of those objectives.

Stage three is the preparation and adoption of a **Local Policies Plan** which must set out the council's local policies consistent with the council's Plan Strategy.

Importantly, each council also has to prepare a **Statement of Community Involvement (SCI)** which sets out how the council will involve the community in drafting its LDP as well as how it will use the responses it receives from the community in developing the content of the LDP.

Given the significance of LDPs in guiding the future use of land, we believe it is necessary that small businesses, including existing bodies such as FSB NI and Business Improvement Districts (BIDs), are fully consulted during the drafting of the plans as well as in subsequent reviews, as small businesses are an integral part of the communities in which they are based.

³ These stages are set out in detail in chapter four of the Strategic Planning Policy Statement for Northern Ireland (SPPS)

Recommendation 7:

Councils must seek to finalise LDPs as soon as reasonably possible, whilst ensuring that the process is inclusive and comprehensive, so that small businesses understand the policy framework within which they are expected to operate.

Recommendation 8:

It is essential that each council commits to engage small businesses in their Statement of Community Involvement and all subsequent reviews to enable them to influence the LDP of their area.

Recommendation 9:

Councils should ensure their respective LDPs support SMEs and do not favour larger businesses in the identification of land for economic and commercial development.

Performance Management

Timely progression of planning applications is key to establishing confidence among the business community to give them the assurance needed to invest and grow.

However, recent statistics⁴ demonstrate that performance in 2014/15 generally reduced compared to the previous year, with none of the Department's key planning performance targets having been met:

- Under the Programme for Government (PFG), there is a key commitment to ensure that 90% of large scale investment (LSI) planning decisions are made within six months and applications with job creation potential are given additional weight. During 2014/15, there were 41 LSI applications where a decision was either reached, or it was possible for a decision to have been reached, within the six month processing target. Of these, 28, or 68%, were processed within 6 months meaning that the 2014/15 PFG target of 90% has not been met.
- The target to process local planning applications in 2014/15 to decision or withdrawal in an average of 15 weeks was exceeded by a week (16 weeks).
- The DoE target to reduce the number of live planning applications over one year old to 650 by 31st March 2015 was not met, with 977 such applications still live at year end.
- The number of live enforcement cases over two years old stood at 707 at the end of 2014/15, significantly above the departmental target of 400.

Looking ahead, the **Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015** sets out that the new system initially has three main performance indicators for 2015/16:

1. All major applications should be processed to decision or withdrawal within an average of 30 weeks from the date valid.

2. All local applications should be processed to decision or withdrawal within an average of 15 weeks from the date valid.

3. 70% of all enforcement cases should be progressed to target conclusion within 39 weeks of receipt of complaint.

As part of their ongoing responsibilities in respect of planning, DoE have a 'continuous improvement agenda' which includes a review of performance management of local councils, including above timescales, after one year.

It should be noted that in England and Wales, most planning applications are decided within eight weeks, unless they are unusually large or complex (for example requiring an Environmental Impact Assessment) in which case the time limit is extended to 13 weeks.

In Scotland, the planning authority should usually make a decision on applications for local development in two months and for national or major development in four months.

Likewise in Ireland, authorities must generally decide planning applications within eight weeks of the date of receipt of the application with a further 4 weeks to make a decision if additional information is requested.

Appeals must also be conducted in a timely manner and, despite improvements, the current Planning Appeals Commission target to decide 80% of appeals within specified time periods (30 weeks for an informal hearing, 28 weeks for written representations with an accompanied site visit, 26 weeks for written representations and 34 weeks for enforcement) is not being achieved.⁵

⁴ Northern Ireland Planning Development Management Statistics (2014/15 Annual Statistical Bulletin)

⁵ PAC Chief Commissioner's Annual Report, January 2015

Recommendation 10:

The new Performance Order for 2016 and beyond should set out how targets for local and major planning applications are to be reduced in line with the rest of the UK, with a timetable for doing so during the course of the next Programme for Government period.

Recommendation 11:

DoE should be proactive in ensuring that underperforming councils improve, based on the results of planning reports whereby targets across council areas are measured quarterly.

Recommendation 12:

DoE must ensure that the Planning Appeals Commission are meeting or exceeding the 80% target for performance management as set out in their Business Plan.

Town Centre First Policy

FSB NI wants to see thriving town centres across Northern Ireland contributing as much as possible to the wider economy. Small businesses are the backbone of the hospitality and retail offer of each and every town centre and planning policy must take account of that.

This is particularly the case given that many town centres have been in decline for a number of years. Unfortunately, this is a negative trend which is illustrated both factually by the number of empty shops and anecdotally through the wide engagement the FSB carries out with our members situated in town centre locations.

The SPPS sets out a new **'Town Centres and Retailing' policy**. This has a number of policy objectives including securing a 'town centre first' approach for the location of future retailing and other main town centre uses; adopting a sequential approach to the identification of retail and main town centre uses in LDPs and when decision-taking, and; enhancing diversity in the range of town centre uses appropriate to their role and function.

FSB NI welcomes the new policy intent within the new town centre policy; however, it is also true that small businesses can benefit from out of town centre development. For example, many small businesses profit from supply chain opportunities associated with out of town development as well as from the increased footfall which flows into the town centre from visitors utilising the out of town centre retail offer of a particular location.

Town centre retail needs to be prioritised but not at the expense of balanced economic growth in other locations which also helps small businesses. This approach should also be reflected in the Retail Strategies which will sit within the LDP of each council.

Recommendation 13:

Planning authorities must demonstrate a balanced approach in the application of the town centre first policy which recognises the need to protect town centres as well as acknowledging the benefits of out of town centre retail developments for small businesses.

Recommendation 14:

Retail Strategies within LDPs should reflect the need for balanced economic growth across all locations through retail planning policy.

Renewables Planning Policy

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The benefits of renewables are well documented, including the key aim of improving security of supply. With excellent on-shore and off-shore resources, Northern Ireland has great potential in renewable energy generation.

The current NI Executive has pursued a successful policy whereby the most recent figures show that 19% of total electricity consumption was generated from renewable sources in 2014.⁶

However, a lack of capacity within the electricity grid and the related difficulties in establishing connections for renewable energy projects has hampered development. The closure of the **Northern Ireland Renewables Obligation** from April 2017 as well as a lack of clarity around the implementation of **Electricity Market Reform** in Northern Ireland also erodes confidence within the renewables sector.

All of these issues are particularly unhelpful for the renewable sector and small, often rural, businesses seeking to diversify into renewable energy and earn additional income.

The DoE has indicated an intention to undertake an urgent and fundamental review of strategic planning policy for renewable energy development following the publication of the SPPS. This review includes detailed research of current planning policy and practices operational in the UK and Ireland.

This review must take into account the benefits of renewables and the future viability of the industry given other imminent developments. It should also consider some of the recommendations of the recent inquiry into wind energy by the Environment Committee which would support those encountering problems with grid connection.

⁶ Electricity Consumption and Renewable Generation in NI: Year Ending March 2015 (NISRA / DETI)

Recommendation 15:

The review of planning policy for renewables should allow for the current permissive policy to be maintained, which sets out that development which generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on a number of areas.

Recommendation 16:

The conclusion reached in the Environment Committee's inquiry into wind energy, that planning applications for connection to the grid should be assessed at the same time as the turbine application, should be taken forward immediately.

Developer Contributions for Affordable Housing

FSB NI research clearly demonstrates that small businesses already contribute numerous social benefits, such as hiring long-term unemployed people and engagement with local communities. Developer contributions for affordable housing would require developers to go further and provide a proportion of new housing developments (over a certain threshold) as affordable housing.

The DoE has been working closely with the Department for Social Development (DSD) to bring forward proposals for a scheme which would implement developer contributions towards affordable housing in Northern Ireland.

The DoE has previously published a draft **PPS 22: 'Affordable Housing'** which sets out planning policy for securing developer contributions towards affordable housing alongside **DSD's draft Developer Contributions for Affordable Housing** consultation which deals with the housing policy aspect of this area.

Following completion of the public consultation exercises for both documents, DoE has stated that further research is required to explore the likely economic impact of the various options for the developer contributions schemes which could be implemented.

However, the DoE has acknowledged that it is vital to get the detail and the timing of the proposals right if they are to deliver affordable homes by way of developer contributions effectively through the planning system.

Recommendation 17:

Further research must consider the feasibility of a Northern Ireland specific approach to a developer contributions scheme with consideration given to a more flexible approach which explores the economic viability of each development proposal individually and the impact on small business developers.

Recommendation 18:

The timing of any introduction of developer contributions for affordable housing should be linked to a clear and sustained recovery within the Northern Ireland construction industry.

Planning Guide for Small Businesses

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The planning system is not considered straightforward by FSB members and many small businesses evidently find it difficult to understand, both as an applicant or as a stakeholder wishing to comment on other planning applications affecting their commercial interests. This complexity is exacerbated by the extensive changes which have been implemented since April 2015.

It is therefore important that planning authorities demonstrate a willingness to cooperate with small businesses, which make up the vast majority of the private sector in Northern Ireland.

Whilst it is welcome that the new SPPS consolidates planning policy, new guidance directed solely at the small business community is lacking but necessary to ensure that they are fully informed of the scale of change which planning has undergone.

An online interactive tool for small businesses would be an excellent starting point.

An ongoing series of workshops and information events specifically aimed at small businesses could also be arranged to explain the new planning system, planning authorities and role of councillors as decision makers.

Recommendation 19:

The DoE should develop an online interactive tool to guide small businesses through the planning process, similar to that currently available for householders.

Conclusion

FSB NI believes that there are opportunities across a range of areas which should be progressed to improve the operation of the planning system for the benefit of small businesses.

Enhanced community involvement is a key element of the new system and small businesses have a major role to play in the success of that, however, planning authorities must ensure that they are being proactively engaged.

Importantly, small businesses must also take responsibility and capitalise on the front loading approach to development management, both as applicants and stakeholders.

As a number of reviews of key policy areas are carried out, DoE must continue to consider the impact on small businesses before taking decisions which could have a detrimental effect on economic growth.

In short, FSB NI wants to see a planning system which works with, and for, small businesses, and the recommendations set out in this paper seek to support that aim.

Summary of recommendations

Recommendation 1: Planning authorities should ensure that economically important local applications which are delegated to Planning Officers, such as those submitted by small businesses, are expedited as quickly and efficiently as possible, preferably within a ten week timeframe as opposed to 15 weeks.

Recommendation 2: Planning authorities should ensure that Statutory consultees are responding within the requested target limits to avoid any unnecessary delay.

Recommendation 3: The DoE should coordinate the eleven Councils to amend their protocols governing the operation of Planning Committees and Schemes of Delegation to give greater uniformity across areas such as speaking rights and referral mechanisms.

Recommendation 4: Environmental Impact Assessments (EIA) should be justified, proportionate and affordable for small businesses.

Recommendation 5: Planning Officers should recommend that an applicant's Proposal of Application Notice sets out how local businesses and business organisations will be consulted during the 12 week pre-application consultation for major projects.

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Recommendation 7: Councils must seek to finalise LDPs as soon as reasonably possible, whilst ensuring that the process is inclusive and comprehensive, so that small businesses understand the policy framework within which they are expected to operate.

Recommendation 8: It is essential that each council commits to engage small businesses in their Statement of Community Involvement and all subsequent reviews to enable them to influence the LDP of their area.

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Recommendation 10: The new Performance Order for 2016 and beyond should set out how targets for local and major planning applications are to be reduced in line with the rest of the UK, with a timetable for doing so during the course of the next Programme for Government period.

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Recommendation 12: DoE must ensure that the Planning Appeals Commission are meeting or exceeding the 80% target for performance management as set out in their Business Plan.

Recommendation 13: Planning authorities must demonstrate a balanced approach in the application of the town centre first policy which recognises the need to protect town centres as well as acknowledging the benefits of out of town centre retail developments for small businesses.

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Recommendation 15: The review of planning policy for renewables should allow for the current permissive policy to be maintained, which sets out that development which generates energy from renewable resources will be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on a number of areas.

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