

Draft Equality Impact Assessment of the Physical Regeneration Concept Masterplan for the Lower Shankill

Consultation Response from the Participation and the Practice of Rights Project

The Participation and the Practice of Rights (PPR) Project supports groups in using a human rights based approach model to realise their economic and social rights. This approach is being used by communities affected by inequality and deprivation in North Belfast and elsewhere on issues such as housing, mental health, urban regeneration and children's play.

1. This submission is in response to the Department for Social Development's Draft Equality Impact Assessment on the Regeneration of five inner city areas; the Lower Shankill; Lower Falls; Crumlin Road (including Lower Oldpark); York Road/Shore Road; and Inner East Belfast. This response focuses primarily on the proposed regeneration of the Lower Shankill however has relevance to all of the five draft plans and EQIA.

2. **EQIA format and process:**

- (a) The PPR Project notes that the format through which the draft EQIA has been presented is that of an overarching 'broad' EQIA and then a briefer analysis of each of the five plans. As a result of this individual area based inequalities are not given enough focus in the equality impact assessment process. The DSD itself notes that according to the Multiple Deprivation Measures (2005), the Shankill is the first most deprived ward in Northern Ireland, and that neighbouring wards such as Falls, Crumlin and New Lodge which are likely to be impacted by proposals all rank in the top five most deprived; as a result of this there is a real need for more extensive analysis.

- (b) Furthermore, the process through which this EQIA was conducted also raises cause for concern. The Physical Regeneration Concept Masterplan proposals and the Draft EQIA were published together and thus were developed in a parallel process which limits the influence the EQIA could have on the masterplan itself. Consideration of available data and research must inform an analysis of existing inequalities, which would in turn inform the content of the proposals so that opportunities to positively promote equality of opportunity among Section 75 groups will be built into proposals.

3. **The consultation process:**

- (a) The DSD make this statement as regards the aim of the Masterplan:

“Area-specific objectives and proposals designed to realise these aims have been developed for each masterplan area in consultation with local community representatives and key statutory bodies”

Furthermore the Draft EQIA acknowledges the origin of these regeneration plans in the Renewing Communities Action Plan, which was a response to concerns that

‘Protestant working class communities appeared to be less likely or less able to engage with the wide range of Government policies and programmes available to them’ (emphasis added)

Despite these statements, the PPR Project has been informed by those individuals named on the official consultation list that they are in complete disagreement that they were ‘consulted’ as part of this process. Moreover, the Lower Shankill Regeneration Board twice made a request that the community be meaningfully involved in the process prior to proposals being developed. These requests was refused.¹

- (b) The DSD have also stated that they are committed to consultation which is “*timely, open and inclusive.*” In addition to this, the document states that this consultation with “*key statutory bodies, the private sector and community and political representatives has been a key feature of the development process.*”

Despite this assertion that consultation with community representatives amongst others would be a key feature in the development of the process, the production of the masterplan was overseen by a Project Steering Group which was made up entirely of statutory bodies and government departments.

- (c) The paragraph which follows this is equally as worrying. To suggest that the consultants who developed the proposals undertook extensive programmes of stakeholder engagement including walkabouts with local community representatives is also unsupported by those who took part in this activity. The Lower Shankill Community Association has publicly stated that at no point was it ever made clear to them that the walkabout referred to constituted part of a consultation. This form of community ‘consultation’ can in no way be seen to fulfil the statutory duty to engage with groups experiencing inequality under Section 75 of the NI Act (1998) and associated Guidance. Indeed records of such ‘meetings’ and ‘consultation’ do not exist.

4. Monitoring and evaluation:

The Draft EQIA document states that the duty to monitor the Masterplans sits with the ‘*relevant statutory agency*’ although this is to be done ‘*in association with a Masterplan Project Board including relevant stakeholders*’. The document then outlines a series of possible indicators which are drawn from government statistics. Statutory bodies are invited to “*draw on these in setting a baseline for the monitoring.*” These indicators must include clear reference to equality targets.

However the issue of monitoring for equality impacts is dealt with separately. There is a commitment that the DSD will gather information on equality monitoring ‘in line with the Equality Commission’s guidance’, but these are to be reported in post project evaluations of individual projects which are effected in response to the Masterplans.

¹ Letter dated 22nd June 2009 to the Minister for Social Development, Margaret Ritchie from the Lower Shankill Regeneration Board and letter dated 19th August 2009 to Mark O’Donnell from the Lower Shankill Regeneration Board

The inability of the EQIA to actually collect statistics which identify inequalities (see 6b below) makes any such ‘monitoring’ of equality impacts impossible. This lack of quantifiable inequalities being identified essentially means that ‘targets’ will be developed without a ‘baseline’ being set. It is therefore impossible to monitor progress on ‘equality targets’.

Furthermore, it is hard to see how monitoring on Section 75 outcomes can be effective with this arrangement which appears to eschew a co-ordinating body i.e. the Department with responsibility to monitor equality over five Masterplans, for a piecemeal approach which will ‘include reference’ to equality and disability. A co-ordinated approach to promoting equality will be impossible within this context. This is made all the more concerning when the fact that this EQIA is to cover five Masterplans is taken into account.

The DSD as the body legally responsible under Section 75 must ensure that inequalities are identified, equality targets are set, and met across all 5 regenerations. These ‘targets’ should be developed with the active participation of groups experiencing the particular inequality identified. If such an evidence based decision is not forthcoming, the DSD will not be able to put in place mitigating measures or alternative policies if equality outcomes are not being met.

5. Procurement:

- (a) The document specifically mentions Economic Appraisals and Business cases and the DSD states they will ‘include reference’ to their section 75 obligations. Equality Commission and Central Procurement practical guidance on this matter is very clear. In relation to Public Procurement:

“[Equality of opportunity] must be thought about much earlier, as soon as the need for investment or purchase is identified. Often it is consideration at these early stages – concept and strategy development – that makes more impact in terms of equality of opportunity”

- (b) The guidance also makes clear that the approach to equality should be ‘active, with policy and decision makers and practitioners seeking out opportunities to promote equality of opportunity’. It must also be “outcome based” and have clear objectives which are understood by all.
- (c) Therefore the DSD must implement this guidance and demonstrate that they are actively promoting equality of opportunity, not merely ‘including reference’ to equality. This is an obligation on public bodies. It is not discretionary.

6. Equality assessment

(a) The DSD states that the primary aim of the masterplanning exercise is:

“to provide a framework for tackling the worst dereliction and under-utilization of assets in areas of high deprivation in Belfast’s middle core.”²

Despite this, the primary statutory duty to promote equality of opportunity is entirely absent from the draft EQIA. The Equality Commission noted this to the DSD in a meeting held on the 8th September 2009, during which Paul Noonan from the Equality Commission stated that

“...the overall draft EQIA was orientated towards avoiding adverse impact rather than identifying opportunities to better promote equality of opportunity”³

On the basis of information contained in the Draft Masterplans and EQIA, this advice was not acted on.

Furthermore, the Draft EQIA does not identify any adverse impacts arising from the Shankill Masterplan on the following Section 75 groups, i.e. age, gender, race, disability, marital status, and sexual orientation. Religious belief/political opinion is approached differently. The scant statistics and information on inequality collected in the Draft EQIA, as outlined below, does neither provide evidence from which to fulfil the positive duty to promote equality of opportunity nor does it enable a proper assessment of impacts.

(b) Statistics - Equality Matrix

While the Draft EQIA contains statistics, in most places these amount to a geographic profile of the Shankill area and do not identify ‘who’ (i.e. which section 75 groups), are experiencing inequality.

² DSD (October 2009) Physical Regeneration Concept Masterplans, Draft Equality Impact Assessment, Page 10

³ ECNI internal note of a meeting between representatives of ECNI and the DSD re: Physical Regeneration Concept Masterplans 8 September 2009 – obtained by the PPR Project through a Freedom of Information request.

As the table below demonstrates, the only information that is broken down by Section 75 group is one table which lists jobs by gender in regard to each electoral ward (e.g. in Shankill 35% of those employed are male and 65% of those employed are female –both full-time and part time jobs), and one statistic in relation to how working age people access employment i.e. on transport to work.

Throughout the rest of the EQIA, the statistics presented are insufficient to be able to highlight those groups experiencing particular inequalities and draw up proposals/put measures in place based on that data to fulfil statutory duty.

	<i>Housing</i>	<i>Education</i>	<i>Health</i>	<i>Employment</i>
<i>Age</i>				Pg 26
<i>Gender</i>				Pg 22
<i>Religious Belief</i>				
<i>Political Opinion</i>				
<i>Race</i>				
<i>Sexual Orientation</i>				
<i>Dependent Status</i>				
<i>Disability Status</i>				
<i>Marital status</i>				

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The EQIA also states that the Masterplans will bring employment benefits for Section 75 and other disadvantaged groups including the long-term unemployed, but does not state how or use statistics to cite which disadvantaged groups require targeting. Instead an intention to consult and to use the ECNI/CPD guidance is stated. This same point has already been articulated by the Equality Commission in a meeting with the DSD before the masterplan and draft EQIA were completed. The minutes from the meeting state that,

“PN [Paul Noonan ECNI] suggested that the section on employment appeared to take a trickle down approach i.e. that the regeneration of the arterial routes would automatically lead to jobs for local people. PN advised that this wasn’t necessarily the case and cited the Laganside and Gasworks regenerations as an example of this. He referred the DSD representatives to the Ashton centre response to the Draft EQIA of the draft Masterplan for Crumlin Road/ Girdwood Barracks which had identified a number of barriers to employment which needed to be addressed to enable local people to access employment and suggested that this be given consideration in respect of the Physical Regeneration Masterplan.”⁴

- (d) Similarly, the EQIA uses statistics to show the large number of people in all the masterplan areas in receipt of Incapacity Benefit. It does not name the people by Section 75 group but states that projects arising from the proposals will contribute to attracting these people to the

⁴ ECNI internal note of a meeting between representatives of ECNI and the DSD re: Physical Regeneration Concept Masterplans 8 September 2009 – obtained by the PPR Project through a Freedom of Information request.

workplace and they will 'explore ways' to 'promote positive outcomes and address barriers to work' for particular groups. Such measures to promote equality must be evidenced and outlined in the EQIA.

(e) There is insufficient evidence presented by the DSD in the Draft EQIA to allow the identification of inequalities, which prevents adopting measures for the promotion of equality of opportunity (as you cannot promote equality if you do not know what the inequality is), and it also prevents the detection of adverse impact as required by the NI Act 1998. Furthermore, lack of Section 75 data means that policy making and proposals are not only non-compliant with Section 75 but also not evidence based, not targeted and therefore will lead to a waste of public money. Evidence based policy making is not apparent here, and is replaced instead, with general statements of intention, e.g.;

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(ii) Similarly, the EQIA uses statistics to show the large number of people in all the masterplan areas in receipt of Incapacity Benefit. It does not name the people by Section 75 group but states that projects arising from the proposals will contribute to attracting these people to the workplace and they will 'explore ways' to 'promote positive outcomes and address barriers to work for particular groups.

(iii) Draft EQIA states (pg 35) that: "The Department considers that masterplan proposals will have a positive impact on all racial groups" with no supporting evidence for this statement.

(f) Religion/Political Opinion

As regards religion/political opinion, there is no identification of adverse impact in the 'broad' Draft EQIA, however the document states that:

"... the urban design principles underpinning the masterplan proposals aim to promote a 'shared space' approach to the design of public realm. It is hoped that this and the redesign of traditionally interface areas will contribute to good relations within and between communities. The Department particularly invites comments on opportunities to promote good relations through the redesign of public realm."

It should be clearly noted that although there is no identification of adverse impact, clearly there will be adverse impact on the Catholic community since the Masterplan areas are three predominantly

Protestant areas, one predominantly Catholic and one mixed. There are no mitigating measures put in place to address this. Instead it is justified by citing ‘urban design principles’ in a manner which incorrectly suggests that these principles exempt the Department from their equality duties in this matter.

The Masterplan also cites the good relations duty as a rationale for this proposal, even though the legislation is clear that this duty is secondary and ‘without prejudice’ to the equality duty. Furthermore it implies by referring to the DSD’s wider physical regeneration strategy for Belfast, that adverse impacts here will be mitigated by masterplanning exercises elsewhere. As the Girdwood Barracks / Crumlin Road Gaol process has shown this is not the case, and any such assertion must be substantiated with evidence.

(g) Area-specific EQIA

The Lower Shankill specific part of the EQIA claims to reproduce the data already considered in the ‘broad EQIA’ and subject it to ‘more detailed analysis and consideration of impact’. Again no adverse impact is identified apart from political opinion/religious belief.

Political Opinion/Religious Belief:

This section of the EQIA states that;

“The Lower Shankill Masterplan proposals are likely to have a favourable differential impact on the local Protestant community as the majority community within the immediate catchment area: however, the benefits of the proposals are not directed at either community and it is considered unlikely that there will be an adverse impact on any individual based on their religious affiliation or political opinion.”

The Masterplan is underpinned by the urban design principle of promoting a shared space approach to public realm. It is hoped that the redesign of traditionally interface areas will contribute to good relations within and between communities. The Department particularly invites comments on opportunities to promote good relations through the redesign of public realm.”

The PPR Project notes with concern that as opposed to identifying an adverse impact on the Catholic community, the plans identify a ‘favourable differential impact’ on the local Protestant community. However this is justified as being unintended and therefore adverse impact is not because of their religious affiliation but is a side-effect. At this juncture it should be stated that the purpose of the EQIA in relation to adverse impact, is not just to identify and tackle *intended* adverse impact, but is precisely designed for uncovering and addressing hidden impacts.

Moreover, the identification of impacts should not be obfuscated to include reference to ‘new’ impacts which are not contained with the Equality Commission’s guidance on the implementation of section 75 such as “favourable differential impact”. If such language is used there is a danger that the focus of the EQIA will be slanted towards an assessment which is not required by the legislation and which actually serves to mask the identification of inequalities.