



Northern Ireland Audit Office

# The Transfer of Former Military and Security Sites to the Northern Ireland Executive



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL  
22 November 2011





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Report by the Comptroller and Auditor General for Northern Ireland

# The Transfer of Former Military and Security Sites to the Northern Ireland Executive



This report has been prepared under Article 8 of the Audit (Northern Ireland) Order 1987 for presentation to the Northern Ireland Assembly in accordance with Article 11 of that Order.

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Comptroller and Auditor General

Northern Ireland Audit Office  
22 November 2011

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## Abbreviations

CPD	Central Procurement Directorate
DFP	Department of Finance and Personnel
DCAL	Department of Culture, Arts and Leisure
DOE	Department of the Environment
DSD	Department for Social Development
EQIA	Equality Impact Assessment
INI	Invest Northern Ireland
ISNI	Investment Strategy Northern Ireland
LPS	Land and Property Services
MLK	Maze/Long Kesh
MOD	Ministry of Defence
NIEA	Northern Ireland Environment Agency
NEELB	North Eastern Education and Library Board
NIAO	Northern Ireland Audit Office
OFMDFM	Office of the First Minister and Deputy First Minister
PSA	Public Service Agreement
RRI	Reinvestment and Reform Initiative
SRO	Senior Responsible Owner
UK	United Kingdom

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# Executive Summary



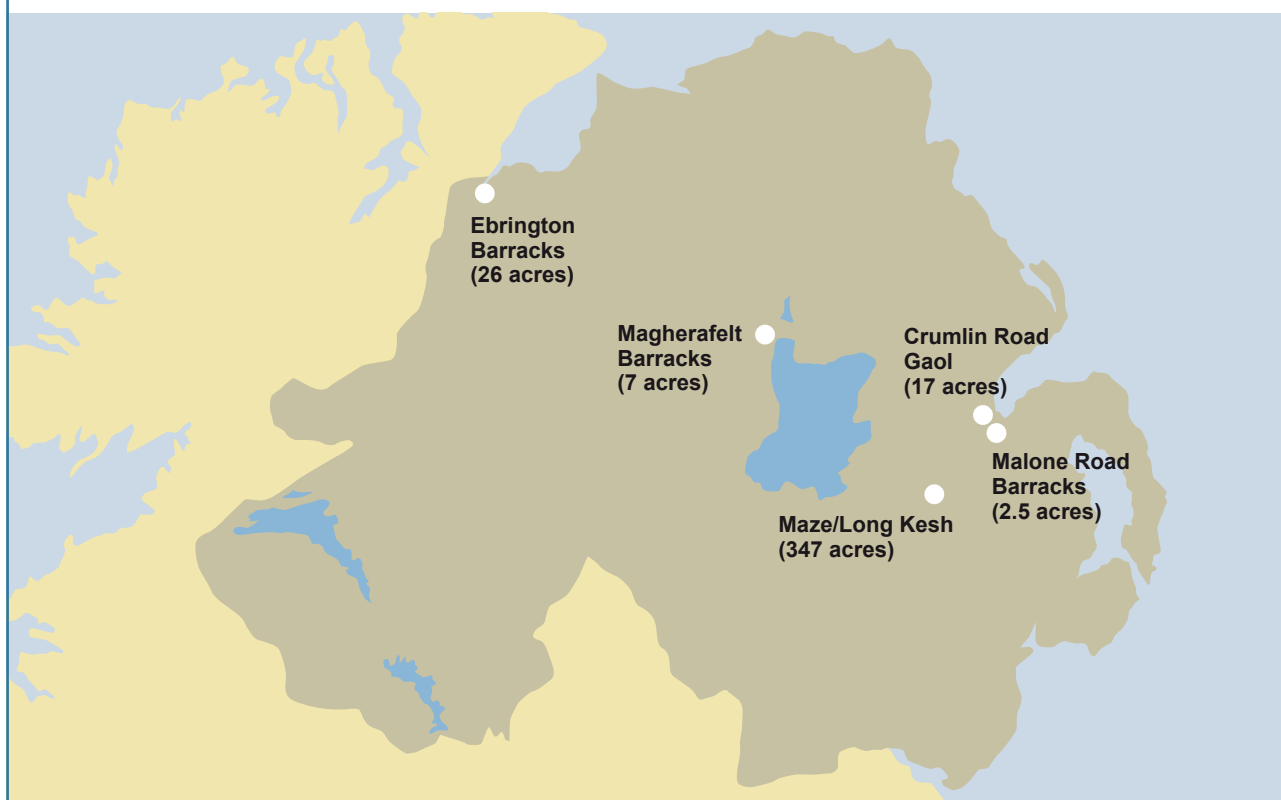
*Aerial view of Crumlin Road Gaol Site. Photo courtesy of OFMDFM*

## Executive Summary

### Background

1. The Reinvestment and Reform Initiative (RRI) was launched in May 2002 and aimed to improve Northern Ireland's public infrastructure and address a backlog of investment. As part of the initiative, the UK Government agreed to transfer a number of military bases and security sites to the Executive free of charge, enabling use to be made of them for economic and social regeneration of local areas. The 2003 Strategic Investment and Regeneration of Sites Order<sup>1</sup> (the 2003 Order) formally dealt with the transfer of sites at Malone; Magherafelt; the former army base and prison at Maze/Long Kesh (MLK); Ebrington; and the Crumlin Road Gaol (see **Figure 1**). It was also envisaged<sup>2</sup> that further sites may be transferred in the future but these may not be transferred free of charge.
2. The UK Government included a number of conditions with the transfers;
  - "the sites, and/or proceeds arising from the sale of part or all of any of them must be used specifically for purposes which represent a tangible

**Figure 1: Six military and security sites were transferred to the NI Executive in 2003 and 2004**



Source: NIAO

Note: on the Crumlin Road Gaol Site, 4 of the 17 acres continue to be owned and used by the NI Prison Service

1 The Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003 (SI 2003 No. 410 (NI.1))  
 2 Paragraph 8 of the explanatory notes to the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003

*benefit of the peace process, for example, by ensuring that subsequent redevelopment has an emphasis on cross community initiatives;*

- *the Executive must bear the cost of making the sites ready for use as and when they are released; and*
- *given the uncertainties relating to valuation, and its dependence on the nature of the planning consents in force at the point of sale, no direct mention of the value of the sites may be made at the time the transfer was announced”.*

3. We have established that the sites were valued by the Ministry of Defence (MOD) at: £4.8 million (Malone); £1.3 million (Magherafelt); £0.3 million (Long Kesh); and £1.3 million (Ebrington) at the time of transfer<sup>3</sup>. A valuation for the Maze prison site was provided by the Department of Finance and Personnel’s (DFP) Land and Property Services (LPS) (formerly the Valuation and Lands Agency) at £4 million in May 2003. The Office of the First Minister and Deputy First Minister (OFMDFM) valued the Crumlin Road Gaol site at £1.3 million at the time of transfer.
4. We note that an agreement was also reached with the MOD in July 2004 that, when it is contemplating vacating sites of significant redevelopment potential in Northern Ireland, formal liaison should take place with the OFMDFM over the disposal arrangements. This was aimed at

ensuring that the Executive has first refusal on sites of “exceptional significance”.

### **The Office of the First Minister and Deputy First Minister is responsible for holding and managing the sites**

5. Within the NI Executive the Department for Social Development (DSD) generally has strategic responsibility for urban regeneration; including responsibility for policy development and actions on urban regeneration; measures on community development; and tackling deprivation. The 2003 Order however, empowered OFMDFM to hold and manage the sites and generally implement the arrangements relevant to the sites included in the Reinvestment and Reform Initiative. This led to the development of joint arrangements for the delivery of regeneration of the Crumlin Road Gaol and Ebrington sites (**Appendix 1**).
6. We calculate that £48 million has been spent on the sites to 31st March 2011 (**Figure 2**), primarily on the Maze/Long Kesh, Crumlin Road Gaol and Ebrington sites. These costs have mainly consisted of infrastructure and capital works; demolition and/or clearance of sites; remediation (decontamination) costs; and professional fees. The Malone site was sold to a private developer in 2003 for £3.8 million (paragraphs 2.2 to 2.13) and in 2010 the Magherafelt site was sold for £1.2 million (paragraph 2.14 to 2.19) to the North Eastern Education and Library Board (NEELB) for replacement

## Executive Summary

- Primary and Nursery Schools.
7. Delivery on the key sites has been slow due to a range of different challenges and factors that have often been specific to the individual sites. This lack of progress is reflected in OFMDFM only spending half of the £85 million of public funding that was made available to it for this purpose since 2003. While large scale regeneration is complex and is a long-term process, involving lengthy planning and implementation timescales, unrealistic planning does not inspire confidence. There is also a risk that underspending could result in potential private sector investors and local communities losing confidence in regeneration efforts.
  8. A detailed analysis of the history and progress at each of the six sites transferred in 2003 and 2004, including background; plans for the sites; details of expenditure; and a timeline of key dates are set out in Appendices 3 to 7.

### Scope of this study

9. In December 2006 we produced a Report<sup>4</sup> examining the implementation of the initial Investment Strategy for Northern Ireland launched in 2005, an integral part of the Reinvestment and Reform Initiative. Whilst that Report did not specifically examine the sites, it did set out the development status of each of the six sites transferred as part of the Reinvestment and Reform Initiative at that time.

**Figure 2: £48 million has been spent on the sites up to 31st March 2011**

EXPENDITURE	Total £'000
Infrastructure and Capital Works	14,540
Professional Fees	9,862
Site Management (e.g. security, maintenance, utilities and facilities)	6,420
Demolition/Clearance	4,316
Remediation/ Contamination	4,020
Central Procurement Directorate (CPD) Costs	3,978
Internal Costs	2,822
Site Acquisition Cost	1,155
Other Costs	664
<b>Total</b>	<b>47,777</b>

*Source: NIAO analysis of data provided by Departments/public bodies*

4 Reinvestment and Reform: Improving Northern Ireland's Public Infrastructure Report by the Comptroller and Auditor General, HC 79, Session 2006-07, 7 December 2006

- 10 This report sets out the options chosen by OFMDFM for each of the six sites (**Figure 1**) in terms of the primary objective of “*delivering economic and social regeneration of local areas*”. It also sets out the background to the sale of the two sites at Malone and Magherafelt and examines the value for money delivered from their sale. It does not examine the value for money of individual projects proposed for the each of the sites where regeneration efforts are ongoing i.e. Maze/Long Kesh; Crumlin Road Gaol and Ebrington. The report does however, consider whether the foundations for the delivery of economic and social regeneration have been laid and the risks to success have been identified and actively managed. It also considers the strategic direction and priorities identified for the sites and how these issues are to be addressed; the working relationships between all partners and key stakeholders; and the performance management and evaluation arrangements in place for monitoring delivery and measuring outcomes at those sites.
11. The report also draws out lessons for future regeneration programmes and projects in Northern Ireland. A key element of the 2010 Hillsborough Agreement<sup>5</sup> was the gifting to the Executive by the UK Government of an additional four former military bases<sup>6</sup>. In February 2011 the arrangements for the gifting of those sites was agreed (**Appendix 2**). Subsequently, in September 2011 the OFMDFM Accounting Officer sought and was given a ministerial direction to take the Shackleton Site at Ballykelly into OFMDFM ownership. The issue giving rise to the direction was that Ministers were concerned that the best cash bid from the Ministry of Defence’s sales process appeared low for such a site and fell well short of previous expectations. However, having taken professional advice on the valuation of the land, potential remediation costs and taking into account the holding costs associated with owning the site, the Accounting Officer was unable to support taking the site into OFMDFM ownership on value for money grounds.

## Methodology

12. Our review included an examination of documentation supporting the key decisions made following the transfer of the sites. To inform our evaluation we held meetings and conducted interviews with senior officials from the Office of the First Minister and Deputy First Minister; Department for Social Development; Department of Finance and Personnel; North Eastern Education and Library Board; the Northern Ireland Environment Agency and the Strategic Investment Board. Structured interviews were also conducted with Senior Responsible Owners for each of the three key sites - Maze/Long Kesh; Crumlin Road Gaol and Ebrington. We developed an evaluation framework to examine the regeneration efforts at each of these three key sites, based on research and audit work undertaken on similar major regeneration schemes in the UK and

5 Agreement at Hillsborough Castle 5 February 2010

6 St Patrick’s Barracks, Ballymena; Shackleton Barracks, Ballykelly; Lisanelly and St Lucia sites in Omagh

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Europe. In particular the framework examined:

- progress to date on the development and regeneration of the transferred sites;
- priorities identified for the sites and how these are to be addressed;
- performance frameworks in place for monitoring the delivery of the strategies for each of the sites; and
- arrangements established for engaging with the community and other key stakeholders.

13. We encountered significant difficulties in obtaining evidence from OFMDFM's records. These included papers supporting the key decisions made in the early stages following the transfer of the sites – that were only recently made available for review. OFMDFM also had difficulty in supplying basic financial information relating to the expenditure on each site. For instance, the Department was unable to provide a breakdown of budgets allocated to individual sites for the period 2003 to 2008.

### Key Findings and Recommendations

- a) **The pace of regeneration has been slow and it will continue to face many challenges in the current economic climate. We recommend that OFMDFM ensures that delivery strategies for the Maze/Long Kesh, Ebrington and Crumlin**

**Road Gaol sites (in association with DSD which owns the adjacent Girdwood site) are finalised and implementation plans put in place as quickly as possible to enable the private sector to plan for investment.**

- b) **The benefits of introducing oversight arrangements for managing major programmes of expenditure was evident in the Northern Ireland Civil Service programme of reform, and the subject of our 2008 Report, *Shared Services for Efficiency – A Progress Report*<sup>7</sup>. The establishment of an oversight Board, chaired by a non-executive member of the DFP Board, led to the development of more effective programme management arrangements that improved planning and coordination of delivery; improved risk management; improved communications; and benefits assessment planning. We recommend the establishment of similar strategic oversight arrangements to provide assurance to the OFMDFM Board on progress on all sites sold to or transferred to the Department.**

- c) **High standards in performance reporting improve the accountability and transparency of public service delivery; help departments to allocate resources effectively; and contribute to robust, evidence-based policy decisions. We recommend that the Department puts in place within its Programme for Government, Public Service Agreement targets that are based on the desired outcomes for the sites and are specific, measurable, attainable, realistic and time-bound (SMART).**



- d) While delivery bodies have set targets, reporting has been inconsistent. In addition, in recent years the Department's Business and Operational plans have remained in draft form and have not been published. We recommend that, in the interest of transparency and accountability, the Department must ensure the timely publication of its Business and Operational plans and those of Ilex and the new MLK Development Corporation.
- e) Independent Gateway reviews are an important control for assessing project and management arrangements for the regeneration efforts at each of the sites. We recommend that the Department ensures that appropriate Gateway reviews are completed on its major capital projects at Ebrington and the Crumlin Road Gaol sites and continue to inform OFMDFM on progress on Maze/Long Kesh.
- f) The sites were transferred free of charge. However, the experience from the Maze/Long Kesh site, where the cost of decontamination is expected to exceed £8.5 million, demonstrates the importance of carrying out due diligence to protect the Northern Ireland Executive from the financial burden of remediation and the cost of maintaining and in making sites safe and secure. With former security sites becoming surplus and likely to be offered or sold to the Executive, it is important that decisions to take on responsibility for them are informed by independent professional advice and full assessment of risks. We recommend;
- that in any future transfer or sale of former military or security sites that appropriate protocols are developed, ahead of sale or transfer, such as that developed between the English Partnerships and MOD's Defence Estates. This should allow OFMDFM and MOD to work more closely together to meet MOD's disposal programme and help OFMDFM deliver their objectives for the sites; and
  - that the risk of uncertainty be reduced through the engagement of an appropriately qualified third party to independently evaluate the robustness of land quality assessments completed ahead of sale or transfer. These measures not only protect the Executive, but facilitate more effective collaborative working arrangements between public bodies.
- g) Some 14 years after its introduction, a key part of the Waste and Contaminated Land legislation has not been brought into force in Northern Ireland which is now out of step with other UK regions. As a result the Local Councils and the Northern Ireland Environment Agency (NIEA) are unable to exercise their inspection and regulatory powers in respect of contaminated land on former military sites and ensure that "reasonable remediation" is undertaken. This regime adopts the "polluter should pay" principle (where possible); followed by the current owner if the polluter
-

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**cannot be found; it also provides for retrospective liability. We recommend that the current gap in the legislation is closed and effective inspection and regulatory powers enabled. This should ensure that the appropriate person(s) are held responsible for remediation.**

- h) We have concerns that OFMDFM did not get best value from the sale of the Malone Road site.** At the time of transfer in March 2003, the site was valued at £4.3 to £4.6 million with a maximum of £5 million. It was marketed at £3.5 million and an initial bid of £4.7 received. However, that bid was subsequently withdrawn. After further marketing a new bid of £3.8 million from another developer was accepted in October 2003.
- i) On advice from Land and Property Services (LPS), clawback<sup>8</sup> (overage) provisions to maximise the return to the public purse were considered but not included in the sale of the Malone Road site.** This advice was contrary to LPS's own guidance applicable at that time<sup>9</sup>. The site was also sold without planning permission.
- j) We are unable to establish how funding generated from the sale of the Malone and Magherafelt sites has been used.** A condition of the transfer of the sites from the UK Government was that proceeds from sales should be used specifically for purposes which represent a tangible benefit of the peace process, for example, by ensuring that subsequent redevelopment has an emphasis on

cross community initiatives (paragraph 2). In our view this has not been clearly demonstrated. **We recommend that all Departments clearly track and account for how "ring-fenced" money is spent and ensure that the process is transparent to the Assembly and local communities it is intended to support.**

- k) Continuity of senior officials is important as high turnover can represent a serious threat to the success of projects.** It is particularly evident in the formative years of Ilex Urban Regeneration Company Ltd. which experienced a high turnover of senior officials; this is recognised as having had a significant impact on regenerating the Ebrington site.
- l) Delivery bodies have been successful in putting in place quick win projects, including the opening of the Crumlin Road Gaol to the public and the Peace Bridge at Ebrington.** It is important that the momentum of these projects continues to maintain the profile of the sites and that delivery at each site is supported by an effective marketing strategy.
- m) We would urge caution in considering the future delivery model for regeneration of the Ebrington site.** Given the progress on regenerating the Ebrington site and the City's success in its city of culture bid in 2013, the efforts are at a critical stage and it is important that continuity and the confidence of the local community and private sector is maintained.

8 Clawback is a term to describe a sum of money in addition to the original sale price which a seller of land may be entitled to receive following completion if and when the buyer complies with agreed conditions.

9 Land and Property Services, Central Advisory Unit (CAU), Northern Ireland guidelines of January 1997, January 1999, September 2001; June 2005 and March 2010.

## Part One:

Six former military and security sites were transferred to the Executive as part of the Reinvestment and Reform Initiative



*Crumlin Road Gaol. Photo courtesy of OFMDFM*

## Part One:

# Six former military and security sites were transferred to the Executive as part of the Reinvestment and Reform Initiative

1.1 The Northern Ireland Office and Ministry of Defence (MOD) use of land and buildings in Northern Ireland over the last number of decades was extensive. When a site was no longer required the normal process was to first offer it for sale to public sector bodies before being put on the open market. As part of the wider Reinvestment and Reform Initiative an arrangement was secured whereby certain sites would transfer to the Northern Ireland Executive to make use of for economic and social regeneration of local areas. The sites transferred in 2003 and 2004 were:

- Maze former prison site;
- Long Kesh army base;
- Crumlin Road Gaol;
- Ebrington Barracks;
- Malone Road Barracks;
- Magherafelt Barracks.

1.2 The conditions applied to the transfers by the UK Government were that the sites (and/or proceeds arising from the sale of part or all of them) must be used specifically for purposes that represent a tangible benefit to the peace process; for example by ensuring that subsequent redevelopment has an emphasis on cross-community initiatives. A second condition was that the Executive must bear the cost of making the sites ready for use, as and when they are released. Finally, given the uncertainties relating to valuation and its

dependence on the nature of the planning consents in force at the point of sale, no direct mention of the value of the sites was to be made at the time the transfer was announced.

### Northern Ireland's political parties and communities were given the opportunity to develop and bring forward proposals for the sites

1.3 In view of the unique significance of the Maze /Long Kesh site, the UK Government adopted an approach to regeneration that included the aim of "*making the site a beacon for the Reinvestment and Reform Initiative, and a key physical expression of the transformation from conflict to peace*<sup>10</sup>". During the suspension of devolution, it considered it important to ensure that Northern Ireland's political parties were given the opportunity to work collectively to develop and bring forward proposals for this and the other sites. During 2002 and in the early part of 2003, a number of groups were established to consider the options for the sites. An advisory panel was also established in 2006 to advise on development at the Crumlin Road Gaol and Girdwood<sup>11</sup> sites (**Figure 3**).

### The three key sites at Maze/Long Kesh, Ebrington and Crumlin Road Gaol adopted a master planning approach

1.4 Large scale regeneration is complex and requires the logical sequencing of a range of projects, the identification/

10 Source Maze Consultation Panel Final Report 2005

11 The 1.4 acre Girdwood Barracks site is adjacent to the Crumlin Road Gaol site. DSD purchased the site for £7 million in March 2006, with the aim of taking forward regeneration on an integrated basis with Crumlin Road Gaol through a master planning approach.

**Figure 3: A number of groups were established to consider the proposals for each of the transferred sites**

<b>Date established</b>	<b>Group/Panel</b>	<b>Function</b>
<b>June 2002</b>	<b>Reinvestment and Reform Initiative Project Board</b>	To advise the Executive. It included representatives from the four main political parties and an advisor from Treasury's private finance and infrastructure investment advisers (Partnerships UK) who had a key formative influence on development proposals.
<b>August 2002</b>	<b>Partnership and Regeneration Panel</b>	A community based panel tasked with bringing forward proposals within three months on the potential role of the Ebrington Barracks within the wider strategic development of the North West, as well as the most appropriate vehicle to take it forward.
<b>September 2002</b>	<b>Reinvestment and Reform Initiative Sites Working Group</b>	The remit was to address the issues surrounding the transfer of the sites and to provide solutions and proposals to the Project Board (see above). The group was made up of representatives from OFMDFM; DFP; Central Procurement Directorate; Land and Property Services; and the Departmental Solicitors' Office.
<b>January 2003</b>	<b>Maze Consultation Panel</b>	Comprised of nominees from the four main parties that formed the Executive and supported by a Secretariat from the Office of the First Minister and Deputy First Minister, and a team of officials drawn from various NI government departments. The panel was charged with effecting the transfer of the Maze/ Long Kesh sites; commissioning a land use study; spearheading a programme of consultation and making recommendations on the appropriate implementation machinery for the development of the sites.
<b>March 2006</b>	<b>Crumlin Road Gaol /Girdwood Park Advisory Panel</b>	Comprising of political, community and statutory representatives. The Panel were tasked with creating a project of international significance which brings maximum economic, social and environmental benefits to the local and wider community and in so doing creates a vibrant, inclusive and diverse environment which attracts present and future generations of people to live, work and visit.

Source: NIAO from Department records

collaboration of critical partners at the right time; the employment of a variety of tools such as infrastructure enhancement, use of public/private partnerships; quality design; marketing and communications to encourage the regeneration to proceed. Long-term programmes such as Maze/

Long Kesh, Ebrington and Crumlin Road Gaol also require the identification, management and delivery of a shared 'vision' aimed at transforming the social, physical and economic conditions. In addition they should include medium and long term plans, with projects that

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'kick start' the regeneration process and gradually build stakeholder confidence and engagement.

- 1.5 Developing a Masterplan<sup>12</sup> is a widely recognised regeneration planning tool giving all stakeholders involved the opportunity to consider the physical transformation on a large scale and the plans for achieving this. They therefore have an important role to play in delivering sustainable communities and as a tool within the local planning system. In order to provide the vision for what could be achieved, Masterplans have been prepared for Ebrington, Crumlin Road Gaol/Girdwood and Maze/Long Kesh sites (see **Figure 4** and **Appendices 5 to 7**).

## In April 2009 the Maze/Long Kesh Masterplan was terminated and the regeneration of the site is now to be taken forward by a new Development Corporation

- 1.6 Following public consultation, the Maze Consultation Panel (**Figure 3**) concluded that no single iconic proposal for the site had been received in the 58 submissions submitted that would fully fulfil the objectives of the Reinvestment and Reform Initiative. However, it considered that a number of the proposals had individual merit that, if combined appropriately, could create the necessary synergy to fulfil a vision for the site. The Panel considered that this would also have the advantage of attracting broad public support for the developments that take place. It recommended the development of major government-led projects including a multi-sports stadium and an international centre for conflict transformation to proceed "simultaneously

**Figure 4: Masterplans have been prepared for Ebrington, Crumlin Road Gaol/Girdwood and Maze/Long Kesh sites**

Maze/Long Kesh	A draft Masterplan was launched in May 2006, proposing a multi-sports stadium, conflict transformation centre, agricultural show grounds, commercial zone, and housing development.
Crumlin Road/Girdwood	A draft Masterplan was launched in October 2007 encompassing plans for a hotel, housing, sports and education facilities, expansion of the Mater Hospital and new playing pitches for St. Malachy's College. The repair and restoration of the Crumlin Road Gaol was an integral part of these plans.
Ebrington site	A draft Masterplan was launched in October 2006, proposing a mixed use development incorporating the heritage buildings on the site. The original Masterplan outlined the potential development of Ebrington within the context of Ilex's Regeneration Plan.

Source: NIAO Analysis

12 A 'spatial masterplan', deals with major change in a defined physical area. It sets out proposals for buildings, spaces, movement and land use in three dimensions and match these aspirations with an implementation strategy (Commission for Architecture and Built Environment)



Aerial view of the Maze/Long Kesh site (reproduced courtesy of OFMDFM)

with all possible speed". The scenario presented by the Panel also included a rural excellence and equestrian zone.

- 1.7 A draft Masterplan was launched in May 2006 proposing a multi-sports stadium, conflict transformation centre, agricultural show grounds, commercial zone, and housing development. The indicative capital cost of the project was £256 million. By the middle of 2008, OFMDFM and the Department of Culture, Arts and Leisure (DCAL) Accounting Officers concluded that a clear value for money case had not been demonstrated

in relation to the scale of the public expenditure proposed. Around that same period DFP also carried out a strategic analysis which also concluded that the Maze/Long Kesh proposal did not represent value for money. In April 2009 the procurement process for the Maze/Long Kesh Masterplan, in its original proposed form, was terminated. At that date, £14.4 million had been spent in relation to the development of the site.

- 1.8 OFMDFM, as Programme Sponsor, has reconstituted the Maze/Long Kesh Programme Board to oversee

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the establishment of a development corporation and preparatory work on the Maze/Long Kesh programme. OFMDFM anticipates that the Corporation will be operational by the end of 2011 and will implement a phased regeneration plan at the site. In 2010 OFMDFM engaged the British Urban Regeneration Association to examine the Maze/Long Kesh site. It concluded that development potential exists and should be exploited.

1.9 In the interim a Programme Delivery Unit continues to prepare the site for future development including progressing the essential remediation programme required to clear the site of contaminants and assessing utility requirements for the site. This Unit is also taking two key projects forward, the Peace Building and Conflict Resolution Centre and the potential relocation of the Royal Ulster Agricultural Society to the site. An application was submitted in January 2011, seeking European Union funding under the Peace III Programme of £18.2 million, for a Peace Building and Conflict Resolution Centre.

1.10 Up to March 2011 £20.8 million has been spent on the Maze/Long Kesh site mainly on professional fees, site clearance and decontamination. Contamination at the site has proved to be a significant challenge which is discussed in Part 3. A detailed analysis on the progress on the development of the Maze/Long Kesh site, including details of expenditure to date is set out in **Appendix 3**.

### The Partnership and Regeneration Panel recommended the establishment of a Development Corporation for the Ebrington site, but the Department (in partnership with DSD) established Ilex - an Urban Regeneration Company

1.11 In December 2002 OFMDFM considered a report submitted by the Partnership and Regeneration Panel (**Figure 3**). The Report identified three considerations in creating a delivery vehicle:

- Appropriate powers;
- Adequate finance; and
- High calibre people at both Board and Executive level.

1.12 The Panel pointed to the importance of taking account of studies such as the "*Heart of the City*" study<sup>13</sup>, and also coordinating the development of Ebrington with that of other strategic sites. Likewise it emphasised the need for a real partnership of public bodies and the private sector. It concluded that a Development Corporation<sup>14</sup> route offered the best chance to secure all three considerations and was in accordance with the views expressed during a very wide ranging consultative process.

1.13 We note that the Department favoured an Urban Regeneration Company<sup>15</sup> model citing the following reasons:

- (i) Urban Regeneration Companies depend on the powers and resources

<sup>13</sup> DSD North West Development Office ~ Heart of the City ~ Urban Design Strategy June 2003

<sup>14</sup> Development Corporations are bodies set up by Government and charged with the urban development of an area. Members are appointed by central government and hence they are considered quangos.

<sup>15</sup> Urban Regeneration Companies (URCs) unite public and private sector partners to deliver sustainable regeneration and stimulate investment in towns and cities.





Aerial view of the Ebrington site: OSNI

which the partners who establish them bring, and much of the added value of the approach is therefore expected to result from the company's co-coordinating, influencing and facilitating role;

- (ii) Urban Regeneration Companies work towards a coordinated approach to the problems and opportunities in their target areas; and
- (iii) principal focus is engaging the private sector in an agreed physical and economic regeneration strategy.

1.14 As a result, the Ilex Urban Regeneration Company Limited (Ilex) was set up in 2003 by OFMDFM and DSD to:

- plan, develop and sustain the economic, physical and social regeneration of the Derry City Council area;
- to develop the Ebrington and Fort George<sup>16</sup> sites; and
- maximise their value to reinvest the development proceeds into the implementation of a regeneration plan to provide long-term economic benefits for the area.

16 The Fort George site is managed by Ilex on behalf of DSD who purchased the site from Londonderry Port and Harbour Commissioners after the site was handed back, under the terms of a lease, to the Londonderry Port and Harbour Commissioners, when declared surplus by the Ministry of Defence. It is not one of the sites transferred under the Regeneration of Sites (NI) Order 2003

## Part One:

# Six former military and security sites were transferred to the Executive as part of the Reinvestment and Reform Initiative

1.15 Our report does not consider how effective Ilex has been in achieving its wider objectives for the Derry City Council area or whether the adoption of a different delivery model would have been more successful. However, we note that the Laganside Development Corporation was viewed as a success and the lessons emerging from it would have been well known when decisions were being taken in 2003. What is not clear to us is whether these lessons were actively considered by OFMDFM when it set aside the recommendation of the Partnership and Regeneration Panel and decided in favour of creating an Urban Regeneration Company. We also note that development of the Maze/Long Kesh site is now to be taken forward by a Development Corporation. The Department told us that the Laganside results are not exclusive to the Development Corporation model and various regeneration vehicle options were considered in detail. It explained that senior officials from OFMDFM and DSD met with Hull Urban Regeneration Company and English Partnerships representatives.

### Following a review of the regeneration plan for Derry~Londonderry, a revised Development Framework for Ebrington is currently being prepared

1.16 An original Regeneration Plan, published in 2005, proposed an agenda for action aimed at ensuring the economic, physical and social regeneration of Derry~Londonderry. This plan has been

revisited and a new Regeneration Plan "One City One Plan One Voice", involving extensive stakeholder engagement and an Equality Impact Assessment, was launched in June 2011. The revised Regeneration Plan followed a review (by the Chair of Ilex) in June 2008 which identified significant challenges relating to leadership, shared vision and strategic intervention in the Northwest region. OFMDFM advised us that Ilex is to provide a fresh Development Framework for Ebrington by the end of the financial year 2011-12.

1.17 Up to March 2011, £12.9 million has been spent on the Ebrington site mainly on Infrastructure and Capital Works and site management. In addition EU funding totalling £14.6 million was also secured by Ilex for the Peace Bridge – a pedestrian and cycle bridge linking the Ebrington site to the Guildhall Embankment. Details on the development of the Ebrington site, including expenditure to date is set out in **Appendix 4**.

### Up to 2010 the Department for Social Development had operational responsibility for the regeneration of the Crumlin Road site

1.18 Up to August 2004 the Crumlin Road Gaol's regeneration was managed by OFMDFM's Regeneration Team. However, following a recommendation of an independent report on community problems in North Belfast, responsibility was assigned to OFMDFM's North Belfast Community Action Unit, which had been established in August 2002.



*Crumlin Road Gaol. Photo courtesy of OFMDFM*

1.19 OFMDFM and DSD recognised the need for an integrated approach to the regeneration of the Crumlin Road; including the development of the former Gaol and the adjacent Girdwood Barracks which was acquired by DSD in 2006 (paragraph 1.3). Through a Memorandum of Understanding prepared in July 2005 (see **Appendix 1**) OFMDFM set out the administration arrangements

transferring operational responsibility of the Crumlin Road Gaol site and the Community Action Unit's staff to DSD. During this period OFMDFM retained overall accountability for its budget allocations delegated to DSD. The Unit has been wound up from April 2010. Responsibility for the Gaol has reverted to OFMDFM with DSD maintaining responsibility for the Girdwood Park site.

## Part One:

# Six former military and security sites were transferred to the Executive as part of the Reinvestment and Reform Initiative

### There has been lengthy public consultation on the Crumlin Road Gaol/Girdwood draft Masterplan but no consensus between the local communities

1.20 Following the transfer of the Crumlin Road Gaol in 2003 and the later acquisition of the adjacent Girdwood site by DSD in 2006, a draft Masterplan was published for public consultation and received over 900 responses. A draft Equality Impact Assessment<sup>17</sup> (EQIA) completed by the North Belfast Community Action Unit in 2008, also went to public consultation and confirmed a strong consensus that, while the development of the Girdwood Park and Crumlin Road Gaol sites is welcomed, there remained a considerable division of opinion as to how the draft Masterplan could be progressed to accommodate competing priorities and conflicting community needs. Housing is the element of the draft Masterplan which has proved to be the most contentious and has evoked the strongest and most conflicting views.

1.21 The EQIA went on to propose that no element of the original draft Masterplan should be abandoned and the refurbishment of the Crumlin Road Gaol should be afforded immediate priority, given that this appears to be a project that enjoys support across all communities. OFMDFM told us that the use of the Gaol itself is the subject of considerable local goodwill and agreement, and much positive work has been done and is underway. It further explained that whilst the prospects for an agreed joint Masterplan remain to be determined,

major work on the roof and walls of the Gaol is nearing completion. The Gaol is due to re-open in 2012 with new visitor facilities; café; museum; conferencing and space for events and local community use. A business case is being prepared for commercial market testing of a portion of the Gaol later in 2011.

1.22 Up to March 2011, £12.3 million had been spent on the Crumlin Road Gaol site mainly on infrastructure and capital works, Central Procurement Directorate (CPD) costs, staff costs and site management costs. Background on progressing the development of the Crumlin Road site, including details of expenditure to date, is set out in **Appendix 5**.

<sup>17</sup> An Equality Impact Assessment (EQIA) is a thorough and systematic analysis of a policy. Its purpose is to ensure that equality is promoted and is non-discriminatory

Part Two:  
Two of the sites transferred to the Executive in 2003  
were sold



*Malone Square Housing Development on former Malone Road Barracks Site.*

## Part Two:

Two of the sites transferred to the Executive in 2003 were sold

2.1 A key provision of the 2003 Strategic Investment and Regeneration of Sites Order is that OFMDFM “may dispose of all or part of a relevant site, for monetary reward or otherwise”<sup>18</sup>. The conditions attached to the sites on their transfer in 2003 clearly stated that the sites, and/or proceeds arising from their sale must be used specifically for purposes which represent a tangible benefit of the peace process, for example, by ensuring that subsequent redevelopment has an emphasis on cross community initiatives (paragraph 2).

**The Malone Road Barracks was sold to a private developer for £3.8 million; significantly below an initial valuation of up to £5 million for the site**

2.2 The Malone Road site was sold, without planning permission, to a private developer in October 2003 for £3.8 million, seven months after it was transferred to OFMDFM. It is clear that OFMDFM did not obtain the price for the site it had expected in March 2003 when it was valued in the range £4.3 to £4.6 million, with a maximum of £5 million. We also have concerns that OFMDFM may not have obtained best value for the site. This is based on the following:



Aerial view of the former security site at Malone: OSNI

- no attempt was made to enhance the value of the site by obtaining planning permission, even though the site was situated in a highly desirable area of South Belfast where development opportunities are limited;
- regardless of this, the site was valued in the range £4.3 to £4.6 million with a maximum of £5 million;
- there is clear evidence from the initial bidding process that the market was willing to pay considerably more than the final settlement;
- despite the recognition that the site had significant development potential and was being sold without planning permission, no clawback provisions were built into the contract preserving the public sector's rights to share in future development gains or profits arising following the development of, or sale or transfer of the site to connected parties;
- evidence that, following the sale of the site to the successful bidder, it was immediately sold to another development company on the same day. We are unable to establish the onward sale price. However, in December 2005, that company was granted full planning permission and construction work was completed on 74 apartments and penthouses in June 2007. The development was reported as setting a new high for property pricing per square foot in Belfast at £500.

2.3

Both OFMDFM and DFP disagree. They contend that; in the absence of any hard evidence such as a higher onward sale price; or whether the onward sale was to a connected or unconnected party; our concerns that best value was not obtained for the site are unsupported. They also added that the selling on to another developer in these circumstances is not an unusual occurrence in the market place. However, in our view the absence of adequate clawback arrangements means that the public sector has not been protected from potential excessive profits gained from the onward sale or development of the site. It also means that following the sale, the Department were not in a position to share in any potential development gains. Furthermore, there is clear evidence from the initial bidding process (**Figure 5**) that the market was willing to pay considerably more than the final settlement.

2.4

OFMDFM took the decision to sell the site on the open market without planning permission. It sought advice from LPS confirming that the site was likely to reach as much without planning permission and/or demolition of existing buildings. Planning Service also confirmed that the only interest from developers would be for housing and the "*normal method of sale would be to allow developers to take out the planning permission*". The site was marketed by agents appointed by LPS. Whilst documentation supporting the appointment of the agents and their marketing of the site are not available for review, LPS informed us that, when marketing took place from March 2003,

## Part Two: Two of the sites transferred to the Executive in 2003 were sold

an initial asking price of £3.45 million was used. In April 2003 the Department's agents invited the various parties interested in the site to make unconditional written offers.

- 2.5 Figure 5 sets out details of the bids received for the site which ranged from £3 to £5.5 million. OFMDFM received an initial bid of £4.7 million in June 2003 from Bidder D. However the bidder later withdrew from the sale explaining that a Tree Preservation Order limited their proposed development. This was despite all bidders being informed of the existence of the Tree Preservation Order prior to bidding. The Department approached the next bidder (Bidder C), who made a revised bid of £3.6 million, which was considered unacceptable by the Department.

**Figure 5: Initial bids received ranged from £3 million to £5.5 million**

	Bid Received £'million
Bidder A	£3.0
Bidder B	£3.8
Bidder C	£4.5
Bidder D	£4.7
Bidder E	£5.5*

*Source: OFMDFM Papers*  
Note  
\*Although offers were sought on an unconditional basis, Bidder E's offer was made subject to the granting of planning consent for his preferred development scheme. The Department's agents disregarded the offer as it was made subject to the granting of planning consent.

- 2.6 Departmental papers from July 2003 indicate that the site was kept on the market and re-advertised in a local newspaper during August 2003. After re-advertisement, and following a recommendation from LPS, a new bid of £3.8 million from another developer was accepted in October 2003. LPS considered that the sale was a success and that it was a clean break sale at market value (best price) with no further legal interest such as clawback, to be monitored. It further added that the property may not have made the figure originally expected; it explained that the property was extensively marketed and achieved best value at the time. It was also OFMDFM's view that *"value for money has been obtained based on the expert advice that no better price could be obtained"*.

- 2.7 DFP informed OFMDFM during October 2003 that any decision by OFMDFM to dispose of the asset required an appropriate appraisal and this was fully explained to the Department by DFP. A business case submitted by OFMDFM to DFP set out the context of the decision to sell the site on the open market. However it did not include an examination of different options and their associated costs and benefits. OFMDFM submitted further material to support the business case and it was approved, subject to certain conditions, in October 2003. These conditions included a requirement to obtain prior DFP approval, under normal delegated limits, before committing any public funds from the proceeds of the sale of the site.



## The inclusion of a clawback provision to protect the public purse was considered but not included in the contract

2.8 Guidance available to public sector bodies<sup>19</sup> at the time of the transfer of the Malone Road site and up to its sale, dealt with sites with development potential and the inclusion of clawback (also known as “overage”). This was aimed at protecting the interest of the taxpayer should there be any increase in value realised subsequent to the original disposal. The guidance applicable at the time of the sale is explicit in setting out alternative schemes which can be used to protect the public interest where it is decided to proceed without planning permission. In the Public Accounts Committee’s report on the Transfer of Surplus Land in the PFI Education Pathfinder Projects<sup>20</sup>, a key recommendation was that clawback provisions should address the public sector’s long term interests and the Committee emphasised the importance of preserving public sector rights to share in future development gains or profits arising following the sale or transfer of assets to connected parties.

2.9 Our review found that, ahead of receiving a business case supporting the sale of the Malone site, the Department of Finance and Personnel (DFP) questioned the absence of clawback arrangements protecting against the contractor making excessive profits on the development. In its response OFMDFM explained that, at that time, it had considered imposing clawback restrictions and had sought advice from LPS. The advice from LPS was that to include such clawback, for a site where

the ability to gain planning permission was likely to be given, would serve only to depress the values to be obtained from the site. LPS told us that the site was valued assuming planning permission for “*high density residential development*”, which was the highest value use. It argues that a case for clawback can only be made where there was a prospect of a higher value or more intensive use. Referring to the relevant guidance (**Appendix 8**) at the time LPS was very clear that this site was not likely to incur “*unusual delays in resolving uncertainties about planning permission*” and there was no “*doubt as to the use which would generate the best price*” and no reason therefore to include clawback terms.

2.10 As set out in paragraph 2.2, it is clear there was the potential for significant development gains to be achieved on the Malone site. We note that LPS’s own guidance at that time (paragraph 2.8) addressed the difficulty of gauging the commercial value of property and that increases in market demand can lead to an unforeseen increase in the value of property after sale that can indicate that the public sector could have got a higher price from the sale. The guidance issued by LPS (**Appendix 8**) addressed such a scenario and stated that it “*can usually be avoided by good advice and, possibly, use of one of the clawback schemes*”. One such scheme presented in their guidance aims to secure the public sector a share in development value of surplus land dependent on a “trigger event” e.g. obtaining planning permission. However, LPS did not recommend the inclusion of a

19 Land and Property Services, Central Advisory Unit (CAU), Northern Ireland guidelines of January 1997, January 1999, September 2001; June 2005 and March 2010.

20 Public Accounts Committee: Report on the Transfer of Surplus Land in the PFI Education Pathfinder Projects (Report: 11/07/08R) 22 November 2007

## Part Two: Two of the sites transferred to the Executive in 2003 were sold

clawback provision because it considered that the operation of a trigger event, such as granting of planning permission after the disposal, would not have released additional value above the value at which the site was sold.

- 2.11 A detailed analysis of the events leading up to the sale of the Malone site is set out in **Appendix 6**.

### We have been unable to establish how the proceeds from the sale of the Malone Road site were ring-fenced

- 2.12 The conditions attached to the sites on their transfer in 2003 clearly stated that the sites, and/or proceeds arising from their sale must be used specifically for purposes which represent a tangible benefit of the peace process, for example, by ensuring that subsequent redevelopment has an emphasis on cross community initiatives (paragraph 2). In January 2004 it was announced that the proceeds from the sale of the Malone Road site would be used for the economic and social regeneration of the Crumlin Road Gaol.
- 2.13 At the time End of Year Flexibility arrangements were in place, enabling the Department to apply to DFP to make such funds available for use in the following year for the regeneration of the Crumlin Road Gaol. However, during 2003-04 the Department in fact surrendered the entire proceeds from the sale to the Consolidated Fund as extra receipts. The Department told us that the £3.8 million

proceeds were part of its submissions in the 2004 budget. However, aside from site management and professional costs, there was no infrastructure or capital works expenditure at Crumlin Road Gaol during the 2004-05 year (**Appendix 5**). We have, therefore been unable to establish how the “ring-fenced” funds generated from the sale have been spent. Given the conditions attached to the transfer of the sites (paragraph 2.12), it is important that the Department clearly tracks and accounts for how these additional funds are spent; this should also be transparent to the local communities who were to benefit and the NI Assembly.

### The Magherafelt site was sold to the North Eastern Education and Library Board (NEELB) for replacement Primary and Nursery Schools

- 2.14 During 2003, in considering the options for the future use of the Magherafelt site, OFMDFM engaged with Magherafelt District Council, Invest Northern Ireland and the NEELB. One of the key provisions of the 2003 Strategic Investment and Regeneration of Sites Order is that OFMDFM “*may dispose of all or part of a relevant site, for monetary reward or otherwise*”<sup>21</sup>. In 2004 OFMDFM announced its proposal to offer the site to the NEELB who would work with the Department of Education to take forward plans for the relocation of the local primary and nursery schools and for a new pre-school facility. This agreement was originally dependent on the current

Primary School site, or proceeds from its sale, being passed to OFMDFM.

- 2.15 Our review of papers indicates that, in September 2005, OFMDFM told NEELB that, under Government Accounting rules, it was not (and never would have been) possible to give it the site and receive the proceeds from the sale of the old school site as reimbursement. While there would clearly have been financial implications associated with such an approach, DFP have told us that OFMDFM's view that it was not possible was incorrect. OFMDFM was also of the view that, following devolution, disposal of such sites required local Ministerial approval. In February 2006 OFMDFM moved to a straight sale of the site to NEELB at current market value with the proceeds from the sale being deployed for other regeneration purposes (subject to DFP approval).

- 2.16 The sale was eventually completed in February 2010 for £1.2 million, less £250,000 for site remediation costs. These costs were calculated by consultants appointed by NEELB and considered reasonable by CPD. However we noted that CPD also advised OFMDFM to commission its own independent report if it required a more up-to-date assessment.

- 2.17 As set out in paragraph 2.1, a condition of the transfer of the sites in 2003 was that proceeds from their sale should be used specifically for purposes which represent a tangible benefit of the peace process e.g. an emphasis on cross community initiatives. In December 2007 it was agreed that (subject to



Magherafelt Barracks

DFP approval) the proceeds from the sale should be used by Ilex for the regeneration of the Ebrington site. However, it is not clear to us how this has been achieved as the proceeds from the sale were surrendered to the Consolidated Fund during 2010-11.

### Recommendation 1

We recommend that all Departments clearly track and account for how "ring-fenced" money is spent and ensure that the process is transparent to the Assembly and the local communities it was intended to support.

### Delays, such as those encountered at the Magherafelt site, impact on the local community and result in significant costs to the public sector

- 2.18 It is evident that many factors have contributed to the six-year delay in the sale of the site to NEELB. These included

## Part Two: Two of the sites transferred to the Executive in 2003 were sold

a lack of clarity over the terms of the transfer and/or sale; uncertainty over the extent of contamination on the site; and significant delays in the submission and approval of planning applications due to the site's former use as a military base and the need for consultation with a wide range of statutory bodies. Their impact however, is primarily on the community who was to benefit from the redevelopment of the site. Our 2010 report<sup>22</sup> on School Design and Delivery highlighted the issue of raising expectations and delays in delivering school capital projects after they have been announced. Construction work on the site is underway, with an estimated completion date of around November 2012.

- 2.19 A detailed analysis of the events leading up to the sale of the Magherafelt site is set out in **Appendix 7**.

## Part Three: The transfer of the sites has resulted in significant costs to the Executive



*Construction work underway at Ebrington Barracks Site. Photo courtesy of Ilex*

## Part Three: The transfer of the sites has resulted in significant costs to the Executive

### Expenditure on the sites up to March 2011 is £48 million

3.1 Although the sites were transferred free of charge, the Executive was required to bear the cost of making them ready for use. We have established that, up to 31 March 2011, almost £48 million has been spent on the sites; primarily on site clearance and preparation; remediation works, management and maintenance; preliminary infrastructure and capital works and professional fees<sup>23</sup>. **Figure 6** analyses expenditure by site.

### The limited progress on the sites is reflected in the significant underspending of allocated public funding

3.2 Examination of expenditure by OFMDFM indicates that it spent significantly less than it had planned and budgeted for. Figure 7 provides an analysis of OFMDFM's budget allocations against actual outturn since the sites were transferred to it in 2003-04. Against an allocation of £85 million, the Department spent £44 million, surrendering £39 million through "in-year changes" and

**Figure 6: Expenditure on the sites to March 2011**

EXPENDITURE	Maze/ Long Kesh	M'felt (OFMDFM)	M'felt (NEELB)	Malone	Crumlin Road	Ebrington	Total
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Site Acquisition Cost	-	-	1,155	-	-	-	<b>1,155</b>
Demolition/Clearance	2,837	-	50	-	426	1,003	<b>4,316</b>
Remediation/ Contamination	3,996	-	24	-	-	-	<b>4,020</b>
Site Management (e.g. security, maintenance, utilities and facilities)	2,097	36	21	1	1,046	3,219	<b>6,420</b>
Infrastructure and Capital Works	295	-	-	-	7,020	7,225	<b>14,540</b>
CPD Costs	1,718	3	-	-	2,009	248	<b>3,978</b>
Professional Fees	8,880	-	412	4	380	186	<b>9,862</b>
Internal Costs	1,014	-	11	-	1,200	597	<b>2,822</b>
Other Costs	-	21	-	-	222	421	<b>664</b>
<b>Total</b>	<b>20,837</b>	<b>60</b>	<b>1,673</b>	<b>5</b>	<b>12,303</b>	<b>12,899</b>	<b>47,777</b>

Source: NIAO analysis of data provided by Departments/public bodies

23 Some costs have been capitalised as OFMDFM took the view that investment should be considered against the asset value, as the sites were gifted at no cost but require substantial demolition/clearance and propriety work to bring to the market by putting in place infrastructure

**Figure 7: OFMDFM funding allocated against actual expenditure**

Year	Opening Budget	In-Year Changes	Final Plan	Final Outturn	Underspend
	£'000	£'000	£'000	£'000	£'000
2003-04	3,000	(2,066)	934	619	(315)
2004-05	2,200	(177)	2,083	2,041	(42)
2005-06	3,900	(2,017)	1,883	1,583	(300)
2006-07	9,100	(4,134)	4,966	3,806	(1,160)
2007-08	17,400	(10,435)	6,965	6,895	(70)
2008-09	17,848	(11,576)	6,272	5,568	(704)
2009-10	16,082	(6,983)	9,099	8,719	(380)
2010-11	15,928	(1,305)	14,623	14,458	(165)
<b>Total</b>	<b>85,458</b>	<b>(38,693)</b>	<b>46,825</b>	<b>43,689</b>	<b>(3,136)</b>

Source: OFMDFM

underspending by £3 million. The Department told us that *"it recognised that, for example at Maze/Long Kesh, because of the need to take political decisions about the course and nature of the potential development, earlier assessments of the timing of possible spend did not prove to be accurate. Such assessments of course had to be made, and to make provision for expenditure in anticipation of Ministerial decisions. The outcome however has been a degree of slippage in spending patterns"*

### Creating the right economic conditions is vital in regenerating the sites

3.3 In order to create and sustain new economic opportunities, places need to be able to attract and retain skilled

workers, support the health of the working age population, provide the right transport and communication links and have the right public service infrastructure in place including health and social care services. In addition they need access to risk and venture capital, be able to support sufficient and affordable housing, green space and business space, and offer a high quality of life for employees<sup>24</sup>.

3.4 Delivery on the key sites has been slow due to a range of different challenges and factors that have often been specific to the individual sites. This lack of progress is reflected in OFMDFM only spending half of the £85 million of public funding that was made available to it since 2003. While large scale regeneration is complex and is a long-term process, involving lengthy planning

## Part Three:

# The transfer of the sites has resulted in significant costs to the Executive

and implementation timescales, unrealistic planning does not inspire confidence. There is also a risk that under spending could result in potential private sector investors and local communities losing confidence in regeneration efforts. The Department consider that this must be viewed in the context of a prolonged period of significant political and economic change from 2003. It explained that it continues to strive to get decisions of this importance correct. Actual annual outturn requirements have however not always aligned with original estimates or indeed Comprehensive Spending Review outcomes. This has then necessarily been managed through the in-year budget planning process. Early surrender of this provision was made in all cases once up to date detailed in-year plans were determined.

3.5 This risk is evident in the Ebrington site where, after eight years from the transfer of the site, a plan for the development of the site is now underway. In 2008 Ilex engaged consultants (at a cost of £75,000) to undertake an economic appraisal to identify the optimum delivery strategy for the Ebrington site. The consultants also completed a market analysis and after weighing up a range of options identified the transfer of the land into a Joint Venture company, with a private sector partner, as the preferred option. This appraisal was submitted to OFMDFM in March 2009 for consideration and approval but in March 2010, Ilex re-submitted a revised Strategic Outline Case to OFMDFM setting out its proposals for the Ebrington site.

3.6 OFMDFM told us that, since then, Ilex has decided to secure outline planning approval through a Development Framework for the Ebrington site. With the designation as City of Culture 2013 and the opening of the Peace Bridge, Ilex believes there is a growing private sector interest in the Ebrington site and told us that it intends to put the Development Framework to the Market in 2012.

3.7 The suspension in 2009 of the original Regeneration Plan launched in 2005 and the faltering of the strategic outline case aimed at identifying the optimum delivery strategy for the Ebrington site, has impacted on the regeneration of the site. Ilex told us that progress at the site was impaired until such time as the Regeneration Plan and outputs from an Equality Impact Assessment were known. It added that, in the current economic climate, to inspire confidence in either the public or private sector, there is a need to provide direction and certainty of outcome to market-based investors. We welcome this acknowledgement. However, it highlights how important it is if the market is to plan for investment in the site, for both OFMDFM and Ilex to ensure that development plan documents, outlining the key development goals of the development framework supporting the delivery strategy for the Ebrington site are finalised; and implementation plans put in place and published without delay.

3.8 Delivering the regeneration of the remaining sites has, and will continue to present many political and local challenges in a financial environment



where there has been a significant decline in the global economy and public sector organisations face funding constraints. The regeneration approach adopted for the sites must also be flexible to respond to the prevailing economic climate.

## Recommendation 2

We recommend that OFMDFM ensures that delivery strategies for the Maze/Long Kesh, Ebrington and Crumlin Road Gaol sites (in association with DSD which owns the adjacent Girdwood site) are finalised and implementation plans put in place as quickly as possible to enable the market to plan for investment.

## Contamination is a key issue in former military and security sites

3.9 As set out in paragraph 1, the Strategic Investment and Regeneration of Sites Order 2003 made provision for the transfer of the military bases and security sites free of charge. While the Order provides for the disposal and/or development of the sites, it made no specific provision for the remediation of sites that may be contaminated ahead of disposal or development. **Figure 8** sets out OFMDFM's understanding of the contamination at each of the sites transferred in 2003 and 2004.

**Figure 8: No significant contamination issues were apparent at the time of transfer of the sites in 2003-04**

Site	Date of Transfer to OFMDFM	Assessment of contamination at date of transfer
Malone	March 2003	Decontamination treatment completed on oil spillage
Magherafelt	March 2003	No site contamination
Ebrington	December 2003	A risk assessment identifying any decontamination required undertaken by MOD who occupied the site up to transfer in December 2003.
Crumlin Road Gaol	August 2003	No specific contamination issues identified.
Long Kesh	March 2003	OFMDFM were assured by MOD that diesel contamination identified at the Long Kesh site had been dealt with. Land Quality Assessment completed by MOD confirms no evidence of asbestos or any other contaminants.
Maze Prison	March 2004	Prison Service advises OFMDFM that it was not aware of any hazardous substances or other contaminants having been dumped or otherwise disposed. Asbestos evident on heating pipes and lead contamination on the firing range. Prison Service expect that these known contaminants would be dealt with during the course of demolition.

Source: OFMDFM papers

## Part Three:

# The transfer of the sites has resulted in significant costs to the Executive

- 3.10 MOD told us that it is their policy to sell sites with the benefit of a risk based land quality assessment and to transfer the liability for any contamination and/or remediation; this is normally reflected in the market value. According to CPD, OFMDFM's advisors on contamination issues on transfer of the Maze Prison and Long Kesh army base, were aware that the land quality assessments were very basic and that further investigations would be required. However, it explained that MoD were not prepared to carry out further studies or to assume liability for remediation. Our review of documentation offered little detail regarding the extent to which OFMDFM carried out due diligence checks on the sites to establish the extent of remediation work that would be required following their transfer. This is surprising given a condition of transfer was that *"the Executive must bear the cost of making the sites ready for use as and when they are released"*.
- 3.11 OFMDFM told us that MoD had made clear they would not carry out any further work on decontamination or assessment before or after transfer. It explained that after the transfer, CPD carried out an extensive programme of work at MLK to assess the extent of contamination, involving detailed and costly investigations and included the engagement of NIEA in 2006. It explained that this very significant programme of work could not have been done before transfer and it would have been counter to the aims of the Reinvestment and Reform Initiative to have delayed the transfer.
- 3.12 The cost of remediation (decontamination) across all sites to March 2011 is £4 million but is estimated to exceed £8.5 million when completed. This is clearly a key issue as in some instances it may lead to the risk that costs of decontamination outweigh the commercial value of a site. These costs must be also be considered alongside the cost of maintenance and in making a site safe and secure. Fort George was not one of the original sites transferred under the 2003 Strategic Investment and Regeneration of Sites Order. It does, however, highlight the potential risks associated with dealing with former military and security sites (**Case Study 1**).
- OFMDFM estimates that the total costs for decontaminating the Maze/Long Kesh site will exceed £8.5 million**
- 3.13 It is difficult to give an accurate estimate for decontamination costs of sites without a detailed knowledge and reports on the sites. The process of identifying and remediating contamination, whether in the soils or buildings of the sites, is a long and involved process that requires the appointment of specialist consultants, intrusive investigations, chemical analysis, and development of appropriate methods for individual sites, regulatory approval and the appointment of specialist contractors to complete the work. The difficulty in estimating these costs is demonstrated in the case of the Magherafelt site, where remediation costs were estimated at £250,000; this amount was deducted from the sale price

### Case Study 1: Decontamination of the Fort George former military site, Derry~Londonderry

The Fort George site was handed back, under the terms of a lease, to the Londonderry Port and Harbour Commissioners, when declared surplus by the Ministry of Defence. The Department for Social Development (DSD) purchased the site, from the Commissioners, in May 2004 for £12 million. Subsequent ground analysis surveys uncovered extensive contamination and the estimated cost to resolve this is in the region of £4 to £5 million.

Following negotiations with the DSD, agreement was reached with the Ministry of Defence on their financial contribution to decontaminate the Fort George site. MoD has paid an agreed settlement sum to DSD of £3.2m to cover the cost of remediation, to Contaminated Land Exposure Assessment 'residential end use standards' of metalloids and hydrocarbon pollutants.

This settlement excluded certain contamination costs for which MOD did not consider itself responsible including:

- the cost of treating Japanese Knotweed on the site (cost estimated at £400k)
- Cost of rendering soil (which was to be removed from the proposed underground car-park) inert for disposal at a licensed dump. (Cost estimated at £3m). If a developer reverted to the original masterplan and proceeded with the underground car-park there would be an additional cost of treating and/or disposing of any surplus soil.
- Design fees (cost estimated at 300k)
- Any increase in cost following agreement of a Remedial Strategy with NIEA or due to discovery of additional contamination, (over and above the current estimated type, severity and volume) during the course of the works.

DSD will benefit from any savings achieved by a competitive tender or reduction in the type, volume or severity of the contamination or a decision to remediate to commercial standards to all areas of the site which will not require remediation to residential end use standard.

Source: DSD/Ilex

on transfer to NEELB (paragraph 2.16). In the event, remediation costs (including professional fees) for the site to date have totalled £20,000.

- 3.14 It is currently estimated that the costs for the investigations and remediation of the Maze/Long Kesh site are likely to exceed £8.5 million. During 2007-08, £1 million was spent on decontamination as part of the Remediation Phase 1 project (total cost £3.2 million for demolition, remediation and essential repairs). An additional £1 million was also incurred for clearance of

lead shot from firing ranges on the site. The Department obtained retrospective approval from DFP in October 2008 for expenditure up to £10 million of which £8.9 million related to decontamination costs. The Remediation Phase 2 contract was approved by DFP at a project cost limit of £3.5 million in October 2008. During the contract works, further pockets of pollution were discovered and by March 2011 the total Phase 2 project costs were anticipated to increase to £5.9 million.

## Part Three:

# The transfer of the sites has resulted in significant costs to the Executive

- 3.15 A significant driver in the total cost of the remediation of the Maze/Long Kesh site was the decision by OFMDFM's Programme Delivery Unit that the remediation of the entire site should be completed to residential standard. As set out in Case Study 1, the nature of proposed developments on a contaminated site will significantly influence the standard of remediation and in turn the extent and cost of remediation. In the absence of detailed information on the final redevelopment scheme, a conservative approach was adopted by OFMDFM in deciding on a level of decontamination to a residential standard (without gardens). The Department told us that it was critical to 'de-risk' the site as early as possible so that investors and developers had confidence in the regeneration. It explained that its decision was based on advice from CPD and its consultants; the understanding that the extra costs would not be significant, bearing in mind the costs of tendering, site establishment, excavation, replacement and compaction of the contaminated soils. It added that if the site had not been remediated to this level, a further contract or contracts may have been required at a later date for any areas required to residential standards, with all the additional procurement, establishment and works costs required, not to mention the delays for NIEA approvals etc. The Department understands that many of the residential use trigger levels for contaminants were not exceeded at MLK so achieving the required standard did not require significant extra work and cost. This is partly because contamination
- was primarily associated with fuel storage and not the range of contaminants found on former industrial sites.
- 3.16 However, in our view, if plans for the site were more significantly advanced, then a more risk-based approach could have been adopted by zoning the site in alignment with the development plan, i.e. meaning that the remediation approach adopted could better reflect the nature of the proposed development and in turn, the cost. This requires effective collaboration between public sector bodies in the planning for the use of the land, including those intending to acquire the land; the Department of the Environment; Planning Service; NIEA and Local Councils.
- Risks can be mitigated through due diligence including the development of protocols, ahead of sale or transfer**
- 3.17 We found evidence that the closure and regeneration of former military sites is a challenge that has been managed in other parts of the UK, with precedents of collaborative arrangements between MOD and English Partnerships<sup>25</sup>. These created a forum to secure desirable outcomes from the development of strategic sites, allowing MOD's Defence Estates and English Partnerships to work more closely together to meet Defence Estates' disposal programme and help English Partnerships deliver their objectives. We also noted that, in December 2002, a senior OFMDFM official had taken up an invitation to visit the Office of Economic Adjustment in

25 Framework Document: Joint Working Arrangements between Defence Estates and English Partnerships November 2004. The Joint Working Arrangements with English Partnerships were replaced with a Bi-Lateral Agreement with the Homes and Communities Agency in 2009.

Washington – an organisation established within the Department of Defense to assist in scaling down US military capability. The outcome of this visit was that, whilst it was considered that the scale of the operations in the US was more significant, a key message was that the decontamination of sites can be complex and costly and it was important to ensure that proper protocols were in place and that full certification was obtained prior to transfer.

- 3.18 Clearly an important part of this process is the need to gain assurance on the potential for contamination of a site; the risks this presents to human health; the environment; the quality of the land risk; and the quality of land quality assessments conducted. The risk of uncertainty can be reduced through the engagement of an appropriately qualified third party to independently assess the robustness of assessments completed ahead of sale or transfer.

### Recommendation 3

We recommend that in any future transfer or sale of former military or security sites that appropriate protocols are developed, ahead of sale or transfer, such as that developed between the English Partnerships and MOD's Defence Estates. This should allow OFMDFM and MOD to work more closely together to meet MOD's disposal programme and help OFMDFM deliver their objectives for the sites.

### Recommendation 4

We recommend that the risk of uncertainty be reduced through the engagement of an appropriately qualified third party to independently evaluate the robustness of land quality assessments and risk assessments completed ahead of sale or transfer. These measures not only protect the Executive, but facilitate more effective collaborative working arrangements between public bodies.

### There is legislation in place for regulating land contamination but a regime is not yet in operation

- 3.19 Many defence activities have or have had the potential to contaminate land. However, land is only defined as contaminated land under pending legislation if the Local Council considers that (i) it is causing significant harm, or there is a significant possibility of such harm to human health or the environment, or (ii) it is causing or likely to cause pollution of controlled waters. There are two principle legislative regimes for regulating and managing land contamination:

- **A Contaminated Land Regime;** Part 3 of the Waste and Contaminated Land (NI) Order 1997 contains the main legal provisions for the introduction of a contaminated land regime in Northern Ireland. This regime provides a means of (i) identifying and dealing with potentially serious problems arising from contamination of land and (ii) establishing who should pay

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for remediation. It applies to sites not being redeveloped through the planning process. However, whilst the Order was enacted in 1997, a regime is not yet in operation; and

- **Planning Legislation:** through the Department of the Environment (DoE), as the planning authority in Northern Ireland, and its functions detailed in the Planning (Northern Ireland) Order 1991. The Northern Ireland Environment Agency<sup>26</sup> (NIEA) and the Environmental Health Departments within the District Councils advise the Planning Service on developments potentially affected by contamination in line with their statutory functions.

3.20 Verification of remediation is an essential element in demonstrating that the risks have been effectively managed and thereby providing confidence to a range of stakeholders (e.g. future site users, regulators and lawyers) that the site is suitable for use. The Contaminated Land Regime is a valuable tool that helps to drive market action to deal with land contamination and it allows the enforcing authorities to take action to identify and deal with significant risks where there is no prospect of a market solution. Both the above pieces of legislation are designed to deal with existing land contamination and require a risk-based approach to dealing with contaminated sites. However, it is important that the management of the risks is supported with a legislative basis that enables the Councils and NIEA to fully exercise their inspection powers in respect of

contaminated land. OFMDFM has engaged NIEA in its decontamination plans and the Agency has set rigorous standards for all the work carried out on behalf of OFMDFM. However, as the legislation has not been brought into force in Northern Ireland, Councils or the NIEA cannot exercise their inspection powers in respect of former MOD sites. This includes its powers to determine how the land should be “reasonably cleaned-up”, and determining the appropriate person(s) who will be held responsible for all or part of the work to remediate the land. The regime adopts the “*polluter should pay*” principle (where possible); followed by the current owner if the polluter cannot be found. It also provides for retrospective liability.

### Recommendation 5

We recommend that the current gap in the legislation is closed and effective inspection and regulatory powers enabled. This should ensure that the appropriate person(s) are held responsible for remediation.

Part Four:  
Driving regeneration of the former military and security sites



*Inside of Crumlin Road Gaol. Photo courtesy of OFMDFM*

## Part Four: Driving regeneration of the former military and security sites

### Public Service Agreement (PSA) targets included in the Programme for Government are not specific to the stated goals and are therefore not measurable

4.1 Departments have been required to publish Public Service Agreement (PSAs) targets covering each three-year government spending cycle since 1998. These specify the targets to be used to measure performance against key departmental and cross cutting objectives. It is also important that, where Arms Length Bodies, such as Ilex, are the primary means of delivering a department's objectives, there should be clear links between those Arms Length Bodies' performance measures and departmental priorities.

4.2 OFMDFM has included regeneration of the sites as a key objective (Objective 2) for the NI Executive under PSA 11<sup>27</sup> "Regenerating former military sites to promote economic growth and for the benefit of local communities". Figure 9 provides an overview of the PSA targets set by OFMDFM over recent reporting periods. Significantly, the Executive's Programme for Government 2008 to 2011 is the first to identify specific targets for the three sites transferred to OFMDFM in 2003.

4.3 Progress on the targets included in the Executive's 2008-2011 Programme for Government is monitored by OFMDFM through a formal PSA monitoring framework that reports quarterly through

**Figure 9: Examination of High Level (PSA) Targets relevant to Military sites**

Source	PSA Targets
Priorities and Budget 2004-06	<ul style="list-style-type: none"> <li>Effective implementation of the Reinvestment and Reform Initiative working with the Strategic Investment Board to improve infrastructure and boost economic progress.</li> </ul>
Priorities and Budget 2005-08	<ul style="list-style-type: none"> <li>Working, in conjunction with DFP and the Strategic Investment Board, to provide the necessary policy and guidance framework for PPPs and PFI to help ensure that they can make an effective contribution to the delivery of some £4.9 billion of investment over the next three years, and up to £16bn of total investment over the 10 year period as set out in the Investment Strategy for Northern Ireland.</li> </ul>
Priorities and Budget 2006-08	<ul style="list-style-type: none"> <li>No general or specific targets relevant to former security sites</li> </ul>
Programme for Government 2008-2011	<ul style="list-style-type: none"> <li>Significant regeneration of the former Ebrington Barracks and Fort George site in Derry/Londonderry, through the Ilex Urban Regeneration Company by 2011.</li> <li>Regeneration of the Crumlin Road Gaol site in line with an agreed Masterplan by 2017.</li> <li>Regeneration of Maze/Long Kesh as a site of regional strategic importance.</li> </ul>

Source: NIAO analysis



the Departmental Board. OFMDFM also has a co-ordinating role for monitoring all departmental PSA returns through its Programme for Government Unit.

4.4 Good practice for programme management is to translate the vision into objectives and targets that cover the goals of the programme. In its 2009 Report on Public Service Agreements<sup>28</sup> the Public Accounts Committee stressed the importance of adopting high standards in performance reporting which can improve the accountability and transparency of public service delivery, help departments to allocate resources effectively and contribute to robust, evidence-based policy decisions. In its Report, the Committee raised its concerns about the reliability and accuracy of the underlying PSA data systems, which makes it difficult to conclude that reported performance, has actually been achieved. It recommended that all future PSA targets should be specific, measurable, attainable, realistic and time-bound (SMART).

4.5 Whilst the overall objective for the regeneration of the sites (paragraph 4.2) identifies '*economic growth*' and '*benefit to local communities*', the PSA targets included in the Programme for Government (Figure 9) are not specific to the stated goals and are therefore not measurable. The inclusion of such narrative indicators does not provide an indication of progress on achievement of the overall PSA objective nor does it provide sufficient detail on how regeneration efforts are progressing on

each of the key former military sites. Whilst the desired outcomes for sites may not have been fully identified when the PSA targets were drafted for the 2008-11 Programme for Government, it is important that OFMDFM translates the aspirations set out in its objective for these sites (PSA 11) into clear and quantifiable targets against which progress can be measured and develops appropriate levers to achieve them.

### Recommendation 6

We recommend that the Department puts in place within its Programme for Government Public Service Agreement targets that are based on the desired outcomes for the sites and are specific, measurable, attainable, realistic and time-bound (SMART).

### Key Departmental Business Documents have not been published

4.6 Our 2007 Report on Good Governance and the effective relationships with Arm's Length Bodies<sup>29</sup>, stressed the importance of the corporate and business planning process and that common shared objectives should be accurately reflected in both the Department's and Arms Length Bodies' corporate and business plans. Internally OFMDFM has monitoring systems in place for the management of its business objectives. This includes targets and actions and assigns responsible owners for delivery. This provides important assurance to the Departmental Board on delivery of the Department's

28 Public Accounts Committee: Report on Public Service Agreements – Measuring Performance Fifth Report Session 2009/10  
 29 Good Governance – Effective Relationships between Departments and their Arm's Length Bodies Report by the Comptroller and Auditor General HC 469, Session 2006-07, 4 May 2007

## Part Four: Driving regeneration of the former military and security sites

objectives. However, in recent years the Business and Operational plans prepared by OFMDFM have remained in draft form. Indeed, the last published plans date back to 2007-08. OFMDFM told us that the 2011-12 business plan has been agreed but they have not sought to publish it given the prospect of a new Programme for Government later in 2011. It explained that it has taken the view that it would be better to wait and align the plan as necessary to the new Programme for Government.

- 4.7 DFP Guidance requires the publication of a Delivery Agreement supporting each PSA. This is aimed at strengthening accountability and confidence in delivery, and supporting the Executive's commitment to more responsive public services. Where PSA outcomes cut across departmental boundaries, Delivery Agreements should also clearly explain the contributions made by each department. However, OFMDFM has not published a Delivery Agreement in support of PSA 11.

### **Delivery bodies have set targets but reporting has been inconsistent**

- 4.8 The Maze/Long Kesh draft Masterplan and Implementation Strategy produced in May 2006 presented a high level regeneration benefits analysis supported by quantified regeneration outputs such as the creation of six thousand new jobs; one thousand new dwelling units built. However, these were never translated into formal performance and/or delivery measurement targets. OFMDFM told us that such targets would only be translated into delivery targets if the Masterplan and Implementation Strategy had been adopted; in the event they were not. However in our view, it is important that the publication of strategy documents should be supported with a clear project plan that includes critical success factors and/or milestones. Similarly, at the Crumlin Road Gaol site, while OFMDFM's internal monitoring systems do include milestones and targets for monitoring progress on site, such measures are not included in an approved Business Plan.
- 4.9 Ilex has presented a range of objectives in relation to the Ebrington site in its published Corporate and Business plans including specific project deadlines. These have been aligned to milestones for the delivery of key Business Plan projects for Ebrington in the context of the previous Regeneration Plan. The current Corporate and Business Plans (2010-11) have been developed to align the Company's objectives to deliver actions and aspirations of the new regeneration plan "*One City One Plan, One Voice*" (paragraph 1.16). These objectives have been further defined into measurement, targets and responsibilities.
- 4.10 Ilex has arrangements in place to monitor and report progress to, on behalf of, and with their partners and key stakeholders. This has enabled progress against specific project deadlines to be monitored on an ongoing basis. Reporting on progress on these measures,

however, has not previously been included in the Company's published documents. It is now being incorporated in the Company's Annual Report and Accounts. It is important that, going forward, Ilex and its sponsor departments recognise that consistent, clear reports of performance and publication of results are important records of progress and help exert pressure for improvement. Such transparency is essential to help ensure that public bodies are fully accountable<sup>30</sup>. Similar performance reporting arrangements will also be necessary following the establishment of the new Maze/Long Kesh Development Corporation.

## Recommendation 7

We recommend in the interest of transparency and accountability, the Department must ensure the timely publication of its Business and Operational plans and those of Ilex and the new MLK Development Corporation.

### Effective strategic oversight is critical in ensuring that the regeneration plans are successfully delivered

- 4.11 Recent reports have identified evidence of weaknesses in the internal control environment operating within OFMDFM and Ilex. The 2010-11 OFMDFM Annual Report and Accounts included a report from the Comptroller and Auditor General to the NI Assembly on a breach of approval granted by DFP for spending on the Maze/Long Kesh Remediation
- Phase 2 Project (Paragraph 3.14). OFMDFM committed £4.9 million of expenditure on the project, exceeding its approved spending limit by £1.4 million. Retrospective approval was also obtained from DFP for the expenditure incurred on the Phase 1 remediation contract totalling £4.2 million. An Internal Audit review conducted during 2010-11 provided a limited assurance on the systems and controls operated by Ilex management in relation to governance, procurement, and the implementation of previous audit recommendations.
- 4.12 It is important that, as the Department responsible for driving forward the regeneration of the three key sites, OFMDFM put in place effective strategic management processes that are critical in ensuring that regeneration plans for the sites are successfully delivered. We found that strategic oversight, providing overall direction on the planning and delivery of the regeneration initiatives, on each of the sites has been unstructured. This may be due to the limited progress made to date in delivering measureable objectives and targets for each of the sites (paragraph 4.1 to 4.7). New governance arrangements were introduced during 2010 between Ilex and its sponsor departments which should improve the effectiveness of the oversight arrangements.
- 4.13 In our view, to more effectively meet its overall PSA objective (paragraph 4.2), there is merit in considering the establishment of a strategic oversight board for the three sites. The benefits of

## Part Four: Driving regeneration of the former military and security sites

such an approach was evident in the Northern Ireland Civil Service programme of reform and the subject of our 2008 Report "*Shared Services for Efficiency – a Progress Report*". The establishment of an oversight Board led to the development of more effective programme management arrangements that improved planned coordination of delivery of projects, improved risk management, communications and benefits assessment planning.

### Recommendation 8

We recommend the establishment of strategic oversight arrangements to provide assurance to the OFMDFM Board on progress on all sites sold or transferred to the Department.

### Independent reviews of Ilex have recently been completed and made key recommendations surrounding its operation and future direction

4.14 The Ilex Management Statement and Financial Memorandum requires OFMDFM/DSD to commission a comprehensive review of the company once every three years. The Departments engaged consultants in May 2010 (seven years after Ilex was incorporated), to critically assess and evaluate the work of Ilex since its inception. Their review examined: the need for the company; its effectiveness, operation and governance arrangements; its value for money; and its future direction. The report identified six critical next steps

to position Ilex to deliver, which closely align initial findings we presented to the Departments in April 2010.

- i. Urgently complete and sign-off the delivery strategies for the two sites and the current Regeneration Plan;
- ii. Improve the alignment of project/financial management and further consider the organisation's resource and skills base in order to ensure rapid progress of business cases and approvals through government accountability requirements;
- iii. Further organisational development to augment capability to deliver and organisational governance;
- iv. Consideration of a single Sponsoring Department to improve alignment between Ilex and Government in order to balance flexibility of operation with accountability;
- v. Enhance corporate planning and reporting regimes across Ilex and the Sponsoring Departments; and
- vi. Build further the relationship with the private sector in Derry/Londonderry and beyond.

4.15 The review recommended that the preferred delivery model going forward is the continuation of Ilex for at least the next three years with immediate significant revisions to operations. It also recommended, subject to a further review for the end of 2014, that Ilex could wind

down operations by 2016. OFMDFM told us that they are awaiting the outcome of the 2014 review before taking a view on the continuation of Ilex. However, we consider that given the progress on regenerating the Ebrington site, the opening of the Peace Bridge and the City's success in its "City of Culture" bid in 2013; that efforts are at a critical stage and it is important that the continuity and confidence of the local community and private sector is maintained. The Board of Ilex feels that its continued oversight is important for the implementation of the new regeneration plan "One City One Plan One Voice" for the next 10 years.

- 4.16 An independent Gateway Review<sup>31</sup> Strategic Assessment of Ilex was also finalised in February 2010. This report made several critical recommendations relating to governance, working relationships and staffing levels and skills. The report also recognised the need for Ilex to, 'more fully articulate' its aims and objectives.
- 4.17 Government procurement policy states that Gateway Reviews are mandatory for infrastructure programmes and projects with a capital value of £20 million or more. In its March 2010 report on the Gateway Review Process<sup>32</sup>, the Public Accounts Committee acknowledged the risk associated with using de-minimis capital values to exclude projects from risk assessment. The Committee recommended that Accounting Officers approach the setting of de minimis limits with caution,

ensuring not only that Gateway will be applied to a reasonable proportion of their capital spend, but also that limits do not rule out projects below £20 million which may, nevertheless, carry a significant risk. OFMDFM told us that it has set in place processes for conducting Gateway/Peer Reviews for all capital projects over £500k. This includes a specific requirement for a Gateway review to be carried out for Ebrington. However, the Department has not yet commissioned reviews of its Crumlin Road Gaol or Ebrington programmes.

### Recommendation 9

We recommend that the Department ensures that appropriate Gateway reviews are completed on its major capital projects at Ebrington and the Crumlin Road Gaol sites and continue to inform OFMDFM on progress on Maze/Long Kesh.

### Continuity of senior officials has been a challenge at Ebrington and Crumlin Road Gaol

- 4.18 In 2009 the Office of Government Commerce issued a paper on the role of Senior Responsible Owners (SROs) in major government programmes<sup>33</sup>. This noted that the average duration in post for major projects is around 18 months, whereas most projects last between 3 and 10 years. It also recognised that high turnover represents a serious threat to the success of projects.

31 Gateway Reviews deliver a "peer review" in which independent practitioners from outside the programme/project use their experience and expertise to examine the progress and likelihood of successful delivery of the programme or project. The review uses a series of interviews, documentation reviews and the teams experience to provide valuable additional perspective on the issues facing the project team, and an external challenge to the robustness of plans and processes. They are used to provide a valuable additional perspective on the issues facing the internal team, and an external challenge to the robustness of plans and processes.

32 Report on a Review of the Gateway Process NIA 47/09/10R Public Accounts Committee 11th March 2010

33 Lessons Learned – The SRO Role in Major Government Programmes OGC November 2009

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4.19 Turnover of senior officials at Ilex has impacted on progress. The company has appointed its third Chief Executive since 2004; the first appointment was made in June 2004. Since then there have been periods of 12 and 9 months where no permanent Chief Executive was in place. Ilex has also had three previous Chairs/ Acting Chairs, prior to the appointment of the current Chair in October 2007. The company also went through a period of 28 months with an Acting Chair.

4.20 At the Crumlin Road site, the North Belfast Community Action Unit has experienced many changes in staffing and structures. Following the transfer of the site in March 2003, responsibility for the Crumlin Road Gaol was allocated to the Regeneration Sites Team, a unit set up within OFMDFM to drive forward the regeneration of all the sites. In March 2004 responsibility for the site was transferred to the North Belfast Community Action Unit (part of OFMDFM at that time). In September 2005 responsibility for the day-to-day administration of the work of this unit was transferred to DSD. From 1st April 2010 the Unit ceased to exist and responsibility for the Gaol reverted to OFMDFM with DSD maintaining responsibility for the Girdwood Park site and the overall masterplan.

4.21 Acting on recommendations following a review by DSD Internal Audit, in December 2008, a Project Board that includes representatives from the site's key strategic partners, was established and project management arrangements improved. Since the transfer of the

Gaol in 2003, there have been three separate individuals designated as Senior Responsible Owner (SRO) for the project. OFMDFM told us that responsibilities have been updated following the transfer of operations at the Crumlin Road Gaol back to OFMDFM in April 2010 (**Appendix 1**).

4.22 The turnover of individuals in recent years has improved with the current Chair and Board members leading Ilex through significant change for the last four years. In addition, the Maze/ Long Kesh Programme Director has continuously served that project for 4 years; and other officials have long service on OFMDFM's team including the head of division who has led the initiative from the outset in 2002.

### Although communications and marketing strategies have been slow to evolve, individual projects associated with the sites have raised their profile

4.23 Delivery bodies need to be patient and drive forward "quick win" projects that build confidence in their regeneration programmes. Ilex had a major boost with the construction of the Peace Bridge - an EU funded £14.7million pedestrian and cycle-bridge spanning the River Foyle which opened in June 2011. (**Case Study 2**). In July 2010, Derry~Londonderry was successful in winning the bid to be the first UK "City of Culture" for 2013. The bid was developed by Derry City Council, Ilex and the Strategic Investment Board for Northern Ireland along with cultural

### Case Study 2: The construction of an iconic Peace Bridge builds confidence in the Ebrington Masterplan

The £14.7 million Peace Bridge, funded by the Special EU Programmes Body, is an iconic structure linking the Walled City Conservation Area to the Ebrington site and is the first step in a major regeneration programme for this site. The structure spans the River Foyle between the Guildhall to the Parade ground in the former Ebrington Barracks. The Bridge opened in June 2011. The new structure has been described as the most significant infrastructure project in Derry city for almost 40 years. The bridge will open up opportunities for development at Ebrington and be another major iconic landmark in this historic city.



Effective liaison with the Planning Service and a range of Statutory Agencies prior to the application being submitted helped speed the planning application to completion in less than three months. In its first week over 100,000 people are estimated to have used the bridge which is symbolic for creating new shared space for both communities in the city.

Source: Ilex

partnerships throughout the city and region, community, voluntary and private sector organisations.

paper also identified the organisation of events as having a key role in the regeneration of an area.

4.24 In 2006 the Organisation for Economic Cooperation and Development completed a review of the success of the Laganside Development Corporation<sup>34</sup> and drew out lessons and practical guidance on how to use key tools and concepts of local development to foster economic growth and social cohesion. A key success feature identified for the Laganside project was the putting in place of an effective marketing and communications strategy linked to the strategic objectives and enhancing the Laganside 'brand'. The

4.25 The scale and significance of the new Regeneration Plan for Derry~Londonderry (paragraph 1.16) makes the development of a supporting communications and marketing strategy, together with an operational plan important. Ilex told us that it presented a communications strategy to its Board in 2005 and implementation began in January 2006. It explained that this created the environment for proactive engagement, instilled confidence and established contacts with key media representatives.

34 LEED Local Development Agency Review. Reshaping a local economy through a development agency: The case of Laganside Corporation Belfast OECD 2006

## Part Four: Driving regeneration of the former military and security sites

### Case Study 3: Opening the Crumlin Road Gaol to the public has been a success, raising the regeneration project's profile

Following the completion of the first phase of the Environmental Improvement Scheme, the Gaol was opened to the public for guided tours between September and December 2007, as part of a visitor access pilot scheme, during which nearly 5,000 people took the opportunity to visit. After restoration of other areas including the execution cells, a further period of public access, featuring paid guided tours on three days per week, commenced in June 2008 and ran until September 2008, attracting nearly 10,000 visitors.



Building on the success of the previous openings, the Gaol was once again opened to the public between April and December 2009 for paid guided tours four days per week. Free guided tours were also offered to primary and post primary schools throughout the region each Wednesday, between April and June. In addition to the public tours, the Gaol has also been the venue for community and commercial events, art and photographic exhibitions, charity fundraisers and as a location for film and television productions.

To date around 50,000 people have visited the Gaol since it re-opened. The capital scheme to restore the Gatehouse and Governor's Corridor of the Gaol is due to be completed at the end of October 2011. This work will arrest the structural deterioration of these two parts of the Gaol and bring them back into public use. Facilities for visitors will be greatly enhanced and the former Prison chapel will be converted into a 180 seat conference room. It is anticipated that the Gaol will reopen as a visitor attraction and conference and events facility in summer 2012. Following an expression of interest from a private sector developer, the Crumlin Road Gaol Regeneration Team has been considering the options for leasing one of the four main accommodation wings of the former prison.

Source: OFMDFM

4.26 Similarly the North Belfast Community Action Unit developed a communications strategy for the Crumlin Road Gaol in 2008, five years after commencement of the project. The Unit considered that it was too early to have a formal marketing strategy as the Gaol was still being developed and, as there was no agreed

masterplan in place, it did not consider it appropriate to raise public expectations. Nevertheless, they have raised the profile of the site by opening the Gaol to the public for short periods (see **Case Study 3**), holding community events in the courtyard and art exhibitions within the building.



## Continued community involvement is a key factor in the success of regeneration projects

4.27 Engagement with local communities can help to shape planned developments so that they not only benefit that community but also increase the likelihood that they support the changes to their area. Success in the Laganside experience demonstrates the merit in having community representation on the organisation's Board, together with engaging a Community Officer and developing a formal community strategy. It was particularly important that the strategy was complimentary to other strategies, taking into account the complex community dynamics of Northern Ireland. This community strategy provides a link between social aspects of regeneration to the physical and the economic elements.

4.28 The Department told us that there has been extensive engagement at each of the sites including;

- at Crumlin Road Gaol an advisory panel was created in March 2006 (paragraph 1.3). The Panel consulted with the local communities and after a process of analysis and extended consultation with statutory bodies, voluntary agencies and community groups a draft Masterplan was produced. An equality impact assessment conducted during 2009-10 also included a public consultation exercise.

- in December 2003, members of the public were invited to submit ideas for the future of the Maze/Long Kesh site. Engagement with the public was through adverts in local, national and international newspapers, via website, public meeting and press coverage. These were considered by the Maze Consultation Panel in their proposals for the site (paragraph 1.6); and
- the recently published Derry~Londonderry "*One City One Plan One Voice*" plan saw an extensive engagement with the city at all levels, opening relationships with not only local politicians and stakeholders, but with the population at large. In particular Ilex forged an early and ongoing focus on the children and young people of the city who have featured in and been involved in the creation of the new plan and key events such as the opening of the Peace Bridge.

4.29 The voluntary and community sector and in particular social enterprises are at the fore in the new Ilex regeneration plan. They will also have an important role to play in sites, such as the Crumlin Road Gaol site, which will require continued engagement with the local communities and improvement of the economic and social outcomes in this deprived area. Construction projects at the Crumlin Road Gaol and by Ilex in Derry~Londonderry have included social employment clauses to provide employment opportunities for

## Part Four: Driving regeneration of the former military and security sites

### Case Study 4: The Kickstart to Work Programme

ILEX has included a Social Clause of targeting recruitment and training in the Peace Bridge contract, which means that for every £1m of the project value, a job will be created and for every £2m an apprenticeship will be created. As a result the Kickstart to Work Employment Programme, in partnership with Ilex, Graham Construction and Derry City Council, successfully recruited 12 staff for job and apprenticeship opportunities on the Peace Bridge project. The minimum expectation, offered as guidance at that time by the Central Procurement Directorate, was one unemployed for £5m contract value. This was significantly over-achieved by Ilex. Similarly, the capital works underway at Crumlin Road Gaol more than doubled the suggested guideline.

Source: Ilex

long-term unemployed. The “*Kickstart to Work Programme*” (**Case Study 4**) is a practical initiative put in place by Ilex that has ensured that developments on the site are providing opportunities for the local community.

months) highlights the value of Pre-Application Discussion with relevant stakeholders. In this case the applicant and their agents engaged in productive discussions with the Planning Service and a range of Statutory Agencies, prior to the application being submitted. Representatives from Derry City Council on the Ilex Board were advantageous in terms of ensuring Council buy-in to the vision and plans for Ebrington.

### There are clear benefits in engaging early with statutory bodies and local government

- 4.30 OFMDFM and Ilex engaged early with the Northern Ireland Environment Agency (NIEA) to ensure that issues surrounding the potential heritage value of the Ebrington and Maze/Long Kesh sites were appropriately recognised and managed (see **Case Study 5**). This has ensured that plans for the site properly take account of the historical structures and legacy, particularly the implications for the movement of heavy vehicles around the site.
- 4.31 The planning application for the Peace Bridge at Ebrington was subjected to a pre-application discussion process, introduced by Planning Service in 2007 (**Case Study 6**). The speed of this planning decision (less than three
- 4.32 The Crumlin Road Gaol/Girdwood project team decided at the masterplanning stage to engage a senior planning advisor from the Planning Service. The benefits derived from seeking this early advice are set out in **Case Study 7**.

### **Case Study 5: Early engagement with the Northern Ireland Environment Agency has helped to protect the built heritage of the Ebrington site**

An initial investigation by the NI Environment Agency concluded that historical interest lay as much in the character of the area as in the merits of individual structures, leading them to conduct a holistic survey of the site, backed by a detailed report. This report was forwarded to both Ilex and the Planning Service; it emphasized the importance of clear management for future development of the site.

In response Ilex engaged a Conservation Architect for the master planning team, while the Planning Service was content to allow Conservation Area designation to evolve from the master plan process.

The masterplan fully utilises the heritage interest of the site, seeking to enhance 14 key listed buildings and retain another six non listed 'important' buildings. Demolition and improvement schemes have prepared the site and restored the historic structures. The floodlighting of the repainted buildings has highlighted the potential of the sites heritage as has the opening on the Star Fort wall, which was the subject of intensive negotiation and has been welcomed by the public as the key access point to the site from the Peace Bridge.

*Source: Ilex /NIEA*

### **Case Study 6: The new pre-application discussion process hastened the Peace Bridge planning approval decision**

The Peace Bridge planning application, with its accompanying Environmental Statement, was received by Planning Service in August 2009 and the decision issued in November 2009. The Pre-Application Discussion process was undertaken during the period 28 April to 25 August 2009. This process was introduced by Planning Service in November 2007, to provide a forum whereby planning officials and key consultees can provide advice and identify key issues at an early stage that need to be considered as part of the application package. The aim is to front-load the planning process by encouraging applicants to engage in constructive pre-application discussions, designed to result in good quality planning applications being submitted accompanied by all of the necessary information. This helps accelerate applications through the statutory planning process and lead to speedier decisions. This model of best practice is also been used in the preparation of the development framework for the Ebrington and Fort George sites

*Source: Ilex*

### **Case Study 7: Planning advisors have been seconded from the Planning Service to the Crumlin Road/Girdwood team and Ilex**

A senior planning advisor was seconded from the Planning Service to the North Belfast Community Action Unit for five years to provide objective professional advice on planning issues relating to the development of the Crumlin Road Gaol and the neighbouring Girdwood Road site. The secondment brought the following benefits:

- rules and regulations;
- provided the Masterplanner with local knowledge, information on the development of other masterplans in the area and the history of the site;
- the practicalities of the site; and
- dealing with the local planning officers on the Crumlin Road Gaol/Girdwood site.

This advisor returned to his original department in 2009 but continues to attend the Project Board meetings to ensure continuity of knowledge.

In January 2011, a planner was seconded from the Department of the Environment to join the Ilex team and has been instrumental in aligning work on the development framework for the Ebrington and Fort George sites with the relevant statutory partners.

*Source: North Belfast Community Action Unit / Ilex*

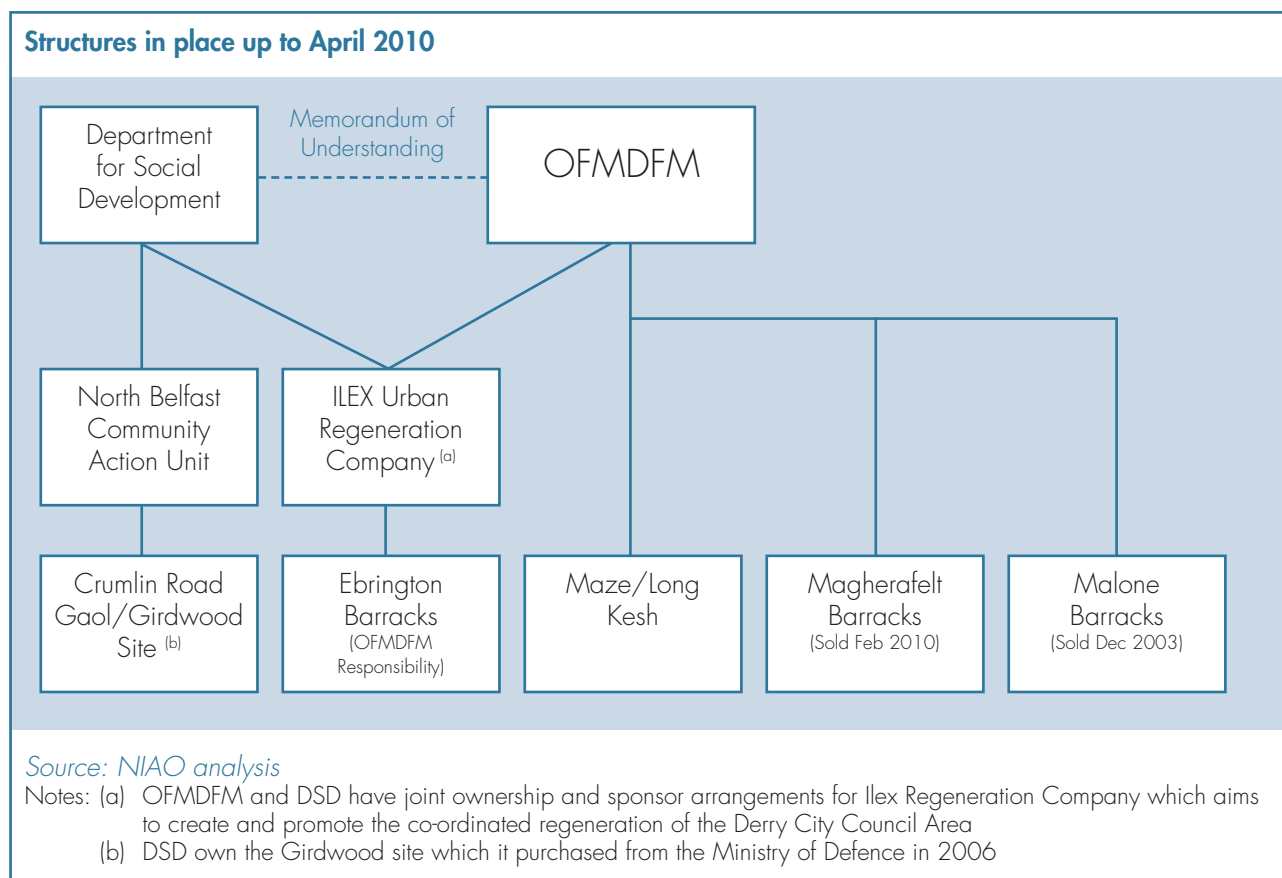


## Appendix 1: Paragraphs 5, 1.19 and 4.21

### Management and governance arrangements established by OFMDFM for the sites transferred under the Strategic Investment and Regeneration of Sites Order

The 2003 Order empowered OFMDFM to hold and manage the sites and generally implement the arrangements relevant to the sites included in the Reinvestment and Reform Initiative. This led to the development of joint arrangements for the delivery of regeneration of the Crumlin Road Gaol and Ebrington sites. This was established through a Memorandum of Understanding Agreement for the Crumlin Road Gaol site and Management Statement, Financial Memorandum and Members Agreement for Ilex<sup>35</sup>. These set out the following accountability arrangements;

- Ebrington Site: The delegated responsibilities make the Ilex accounting officer accountable for all capital and current expenditure. Although delegating most external responsibility to Ilex, OFMDFM remain accountable for all decisions made relating to the Ebrington site<sup>36</sup>;
- Crumlin Road: Ultimately OFMDFM retains accountability for expenditure incurred on its behalf by DSD<sup>37</sup>.



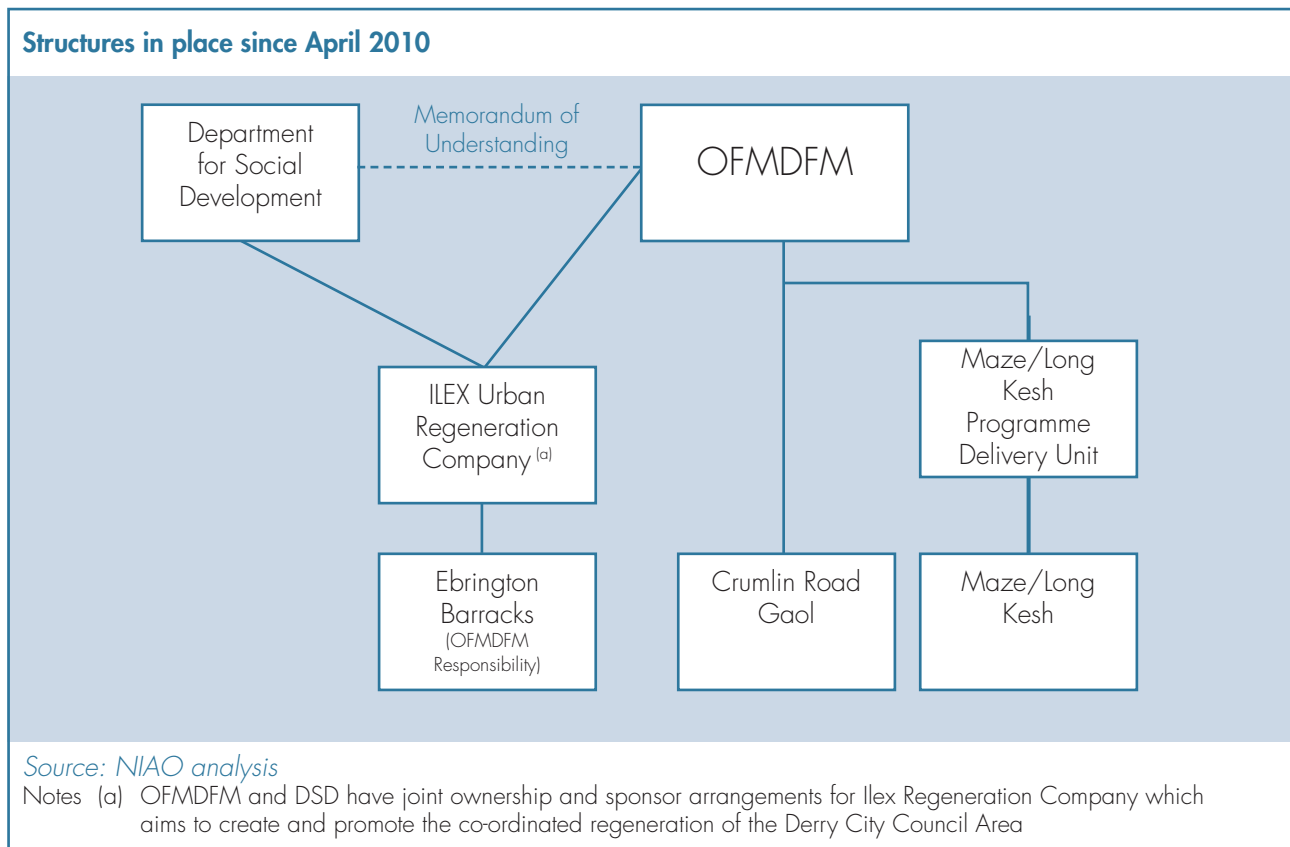
35 Such agreements are documents describing a bilateral or multilateral agreement between parties. It expresses a convergence of will between the parties, indicating an intended common line of action.

36 Members Agreement Ilex Urban Regeneration Company Ltd November 2005

37 Letter from Head of Civil Service July 2005 – "North Belfast Community Action Unit- Administrative Arrangements between OFMDFM and DSD

## New structures have been established since April 2010

There have been many issues and challenges at the sites since their transfer in 2003 (explained further in Part 1). These have resulted in a change in the management of the regeneration and governance arrangements. The figure below sets out the revised arrangements that have been operating since 1st April 2010. A Programme Delivery Unit was set up ahead of legislation to establish a Maze/Long Kesh Development Corporation, which was approved by the Assembly in September 2010.



## Appendix 2: Paragraph 11

### Former military sites transferred to the Executive under the February 2010 Hillsborough Agreement

Site	Acreage	2010 Valuation (£'m)	Description and key site issues
St Patricks Barracks Ballymena	43	£8.8m	<p>The site is currently being held by OFMDFM for eventual disposal. Asset Management Unit and LPS advice is being sought on marketing the main part of the site. DFP approval will be required for the disposals</p> <p>The site lies close to Ballymena town centre and was vacated by the MOD in March 2008. There are 47 dwellings which are included in a proposal, sponsored by DSD, for conversion into social housing in partnership with a housing association. The main barracks site attracted interest from the PSNI, NEELB and NIHE but access difficulties combined with budget constraints may hinder the early generation of significant receipts for the main site. The Territorial Army is based on site and plan to remain there. The site was transferred to OFMDFM in April 2011.</p>
Shackleton Barracks Ballykelly	730	£7.5	<p>The MOD announced in April 2011 that they will sell the site and pass the proceeds to the Executive. The MoD have already sold the four married quarter areas, which represented the most readily marketable parts of the site.</p> <p>There are two main areas within the barracks site: the upper camp contains offices, stores and some multi storey accommodation while the lower camp contains the airfield, hangers and various other buildings. The low lying airfield is protected from flooding by a sea wall and pump system. Access to the site is through private property which may pose future legal problems. Levels of contamination have not yet been established. The site is effectively "green belt" as it is outside the Development Limit in the local Area Plan. No public body has expressed an interest in the site. Subsequently, in September 2011 the OFMDFM Accounting Officer sought and was given a ministerial direction to take the Shackleton Site at Ballykelly into OFMDFM ownership. The issue giving rise to the direction was that Ministers were concerned that the best cash bid from the Ministry of Defence's sales process appeared low for such a site and fell well short of previous expectations. However, having taken professional advice on the valuation of the land, potential remediation costs and taking into account the holding costs associated with owning the site, the Accounting Officer was unable to support taking the site into OFMDFM ownership on value for money grounds.</p>



Lisanelly Omagh	118	£13.5	<p>The site, together with some land from St Lucia was transferred to the Department of Education on 15 April 2011 for a school's campus, as envisaged under the Hillsborough Agreement</p> <p>The main barracks site contains a range of housing, shops, a swimming pool, playing fields, a helipad, church, offices and stores. There are indications of significant contamination and early estimates of £4 million required for remediation. The site is the proposed location of an educational campus, as mentioned in the Hillsborough Agreement.</p>
St Lucia Omagh	48	£5.5	<p>This site was transferred to the Executive in April 2011 with the exception of part of the main barracks which has been retained in MOD ownership. MOD was unable to lawfully transfer part of the barracks to the Executive because of title issues and has retained ownership of the historic buildings pending lease surrender. The floodplain is in the possession of the Department of Education, while the remaining areas that were transferred are currently held by OFMDFM for eventual disposal.</p> <p>Asset Management Unit and LPS advice is being sought on marketing the main part of the site. DFP approval will be required for the disposals. This site is adjacent to Lisanelly and connected to it by a temporary bridge and was vacated by the MoD in July 2007. The site has three distinct parts:</p> <ul style="list-style-type: none"> <li>• main barracks site including listed buildings; there is a significant issue of title which requires resolution between MoD and the freeholders. The listed buildings would be costly to convert.</li> <li>• area of housing and development land.</li> <li>• a flood plain only suitable for recreational use.</li> </ul> <p>DSD has produced a draft masterplan for the whole site which envisages public sector use along with a range of potential residential uses</p>

Source: OFMDFM

Note

The most recent valuations for each of the sites are as follows: St Patricks, Ballmena £7.3m (April 2011); Shackleton Barracks £7.5m (Nov 2010); Lisanelly, Omagh £9.5m (April 2011); St Lucia, Omagh £4.3 m (April 2011).

## Appendix 3: Paragraph 1.10

# Maze/Long Kesh

### Maze/Long Kesh

#### Background

The 347 acre Maze site (including the 90 acre army base at Long Kesh and the former top security prison) was transferred to OFMDFM in March 2003. The cross party Maze Consultation Panel had already been set up, its work was divided into three main phases: initial scoping; public consultation; and reporting. The culmination of their work in 2005 was a report<sup>38</sup>. Subsequent to this, the Maze/Long Kesh Monitoring Group was established in December 2005, its membership included nominees from each of the four main political parties. The Maze/Long Kesh Masterplan and Implementation Strategy were published in May 2006.

Consultants were engaged by DCAL as the integrated stadium designers under a contract valued at £2.6 million. Completion of this design work was delayed to March 2008 resulting in £558,000 additional costs. Consultants were also engaged to prepare a programme level Outline Business Case



Aerial view of the Maze/Long Kesh site: Courtesy of OFMDFM

and business cases for the three core project components; a sports stadium, a conflict transformation centre and infrastructure works. The business case development process was undertaken in tandem with the procurement exercise to select a private sector delivery partner. A full competitive dialogue process commenced in December 2006 and offers from three shortlisted bidders were received in September 2007. A Gateway review (Gate 0) in September 2007 gave the programme a status red grading.

By mid 2008, the OFMDFM and DCAL Accounting Officers, together with DFP had concluded that a clear value for money case had not been demonstrated in relation to the scale of the public expenditure proposed. In a joint statement in April 2009, the First Minister and deputy First Minister announced that the Maze/Long Kesh Masterplan, prepared in 2006, would not proceed in its original proposed form and that the procurement process to appoint a development partner to deliver a multi sports stadium and the wider development of the site was terminated. They confirmed their commitment to securing the regeneration of the site and proposed the establishment of a Development Corporation to take the project forward.

### **What are the plans for the site?**

There were a number of elements included in the 2006 Masterplan – multi-sports stadium, conflict transformation centre, agricultural show grounds, commercial zone, and housing development. The indicative capital cost of the project was £256 million. Whilst much of the analysis in the 2006 Masterplan is still relevant, the context of Maze/Long Kesh has changed fundamentally since the 2006 Masterplan was prepared and published. There is now an urgent need to clarify the long-term vision and identity of the Maze/Long Kesh site from 2010 onwards. A spatial development framework project will set out a spatial plan as to how the site could be developed. This project will be managed by OFMDFM's Programme Delivery Unit.

The business case for the establishment of the Development Corporation has been approved by DFP. It is anticipated that the Corporation will be operational by the end of 2011 and that it will adopt and implement a phased regeneration approach to the development of the site and implement a phased regeneration plan at the site. The Corporation's master planning framework will initially include a draft implementation strategy, a spatial development framework and outline infrastructure plans.

### **How are the plans to be delivered?**

In the interim a Programme Delivery Unit continues to prepare the site for future development including the preparation of strategic plans for the site and progressing the essential remediation programme required to clear the site of contaminants and assessing utility requirements for the site. This Unit is also taking two key projects forward, the proposed Peace Building and Conflict Resolution Centre and the potential relocation of the Royal Ulster Agricultural Society to the site. An application was submitted in January 2011, seeking EU funding of £18.2 million for the Peace Building and Conflict Resolution Centre.

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## Appendix 3: Paragraph 1.10

## Maze/Long Kesh

### Expenditure to March 2011

EXPENDITURE	2003/04 £'000	2004/05 £'000	2005/06 £'000	2006/07 £'000	2007/08 £'000	2008/09 £'000	2009/10 £'000	2010/11 £'000	Total £'000
Site Acquisition Cost	-	-	-	-	-	-	-	-	-
Demolition/ Clearance	-	194	51	190	1,119	824	284	175	<b>2,837</b>
Remediation/ Contamination	-	-	-	-	295	367	718	2,616	<b>3,996</b>
Site Management (e.g. security, maintenance, utilities and facilities)	380	393	151	178	242	300	239	214	<b>2,097</b>
Infrastructure and Capital Works	-	-	-	-	-	-	176	119	<b>295</b>
CPD Costs <sup>1</sup>	293	256	173	145	282	181	141	247	<b>1,718</b>
Professional Fees <sup>2</sup>	39	162	407	1,562	4,790	617	444	859	<b>8,880</b>
Internal Costs <sup>3</sup>	110	116	126	134	143	153	104	128	<b>1,014</b>
Other Costs	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>822</b>	<b>1,121</b>	<b>908</b>	<b>2,209</b>	<b>6,871</b>	<b>2,442</b>	<b>2,106</b>	<b>4,358</b>	<b>20,837</b>

#### Notes

1. Includes expenditure incurred by the Department for Culture, Arts and Leisure, amounting to £14,000.
2. Includes Strategic Investment Board and Department for Culture, Arts and Leisure expenditure on professional fees, amounting to £314,000 and £3,586,000 respectively.
3. Includes Department for Culture, Arts and Leisure internal costs amounting to £118,000.

## Timeline of Events/Key Delivery Dates

Date	Development
January 2003	The Minister announced the establishment of a cross-party Consultation Panel to bring forward advice on the regeneration of the Maze/Long Kesh.
March 2003	The 347 acre Maze site (including the 90 acre army base at Long Kesh and the former top security prison) was transferred to OFMDFM. The cross-party Consultation Panel met on for the first occasion and then a further 13 occasions up to November 2004.
December 2003	Public consultation exercise initiated.
December 2004	Establishment of the Maze/Long Kesh Monitoring Group
February 2005	The Consultation Panel published its report ' <i>A new future for the Maze/Long Kesh</i> ' recommending a number of key components for transformation and regeneration.
May 2006	The draft Maze/Long Kesh Masterplan and Implementation Strategy was launched.
October 2006	Main phase of demolition work to clear unnecessary buildings from the 347 acre site began.
January 2007	A Strategic Outline Case for the whole Maze/Long Kesh development, prepared by consultants.
January 2007	The Minister revealed the name of the winning Consortium to take the proposed Master Plan development forward.
September 2007	A Gateway review (Gate 0) awarded the programme a status red grading.
December 2007	Strategic Outline Business Case accompanied by OFMDFM/SIB reviews forwarded to DFP.
January 2008	The Outline Business Case for the proposed multi-sports stadium forwarded to DFP, from the DCAL Accounting Officer.
June 2008	Against the background of both OFMDFM and DCAL Accounting Officers concluding that a clear value for money case had not been demonstrated in relation to the scale of the public expenditure proposed, DFP's strategic analysis of the value for money and affordability implications of the Maze/Long Kesh outline business case was detailed in a paper to the DFP Assembly committee.
April 2009	The First Minister and deputy First Minister announced that the Maze/Long Kesh Masterplan would not proceed in its original proposed form and that the procurement process to appoint a development partner to deliver a multi sports stadium and the wider development of the site was terminated. They proposed the establishment of a Development Corporation to take the project forward.
June 2010	The Strategic Outline Case for the consideration of options for a vehicle to take forward the development of the site was approved by DFP.
September 2010	Outline Business Case to establish the Maze/Long Kesh Development Corporation approved by DFP. Statutory Rule to establish the MLK Development Company passed by the Assembly.

## Appendix 3: Paragraph 1.10

## Maze/Long Kesh

Date	Development
January 2011	Peace Building and Conflict Resolution Centre project submitted an application for EU funding under the PEACE III programme.
April 2011	OFMDFM appointed experts to produce a spatial framework and implementation plan; submitted a Maze/Long Kesh Site Development strategic outline case to DFP; and submitted a strategic outline case to DFP in respect of the Peace Building and Conflict Resolution Centre project
May 2011 -	Special EU Programmes Body consultants sent an Economic Appraisal for the Peace-building and and Conflict Resolution Centre application to OFMDFM for assessment.

## Appendix 4: Paragraph 1.17

# Ebrington

### Ebrington Barracks

#### Background

Ebrington Barracks is a 26 acre site, located in the Waterside area of Derry~Londonderry on the east bank of the River Foyle. A Partnership and Regeneration Panel was established in August 2002 to bring forward proposals on the potential use of Ebrington and consider the most appropriate vehicle to take it forward.

In December 2002 OFMDFM considered a report submitted by the Panel. The report set out its view that the Development Corporation route offered the best solution and accorded the views expressed during a very wide ranging consultative process. The Panel emphasised the need for Ebrington to be developed as part of a co-ordinated, wider development of the North West and pointed to the importance of taking account of studies such as the "Heart of the City"<sup>39</sup>, and also co-ordinating the development of Ebrington with that of other strategic sites. Likewise it emphasised the need for a real partnership of public bodies and the private sector.

OFMDFM decided that an Urban Regeneration Company provided the best basis for the way forward. The Ilex Urban Regeneration Company Limited (Ilex) was set up in July 2003 by OFMDFM and the Department for Social Development (DSD) to plan, develop and sustain the economic, physical and social regeneration of the Derry City Council area. Ilex has been specifically tasked with the development of two former security bases, Fort George<sup>40</sup> and Ebrington. Ilex will seek to maximise the value of the Ebrington and Fort George sites and to reinvest the development proceeds into the implementation of the Regeneration Plan to provide long term economic benefits for the area.



*Parade Ground, Ebrington Barracks*

## Appendix 4: Paragraph 1.17

# Ebrington

### Plans for the site

Ilex engaged consultants in 2004, to undertake a baseline study to inform the strategic regeneration of the Derry area and provide information that would lead to the development of an information database and research resource. Subsequently, the Regeneration Plan for the Derry City Council area was launched in December 2005 setting out an integrated vision for the regeneration of the area. This plan highlighted the “huge potential” of the Ebrington site and recommended the production of a site masterplan.

The draft Ebrington masterplan was launched in October 2006 proposing a mixed use development incorporating the built heritage on site and including commercial offices; facilities for the leisure, community, culture and tourism sectors; residential development and retail outlets. The plan with an estimated cost of £97 million included:

- the positioning of a new foot/cycle bridge connecting to the west bank of the River Foyle;
- the re-location of the railway station to the Ebrington waterfront;
- the turning of the Parade Ground into a piazza type area; and
- existing listed buildings being developed for a mix of uses.

Following a review of the regeneration effort for Derry-Londonderry, a revised Ebrington Development Framework is currently under development.

### How are the plans to be delivered?

The demolition of over one hundred structures and substantial conservation works has been completed. An assessment of the listed buildings and the Parade Ground for potential use with a cultural focus and various other informative/preparatory surveys has been completed.

Funding for the £14.7 million foot and cycle Peace Bridge was secured from the European Union, a contractor appointed and the bridge successfully completed on 25 June 2011.

The Cunningham Square, Building 11 and the Parade Ground projects are at the construction stage. A construction contract was signed in August 2010, (capital cost estimated at £7 million) to commence the first phase of the parade ground project. This entails development of the old Parade Ground where the Peace Bridge lands and will provide a large area of public realm for up to 15,000 people.

In 2008 consultants were engaged to identify and assess the optimum long term delivery strategy for the site. Their Economic Appraisal recommended a public private partnership approach through the establishment of a Joint Venture Company with both private and public shareholders, as the preferred option. In October 2010, after further analysis and investigations, Ilex submitted a further revised Strategic Outline Case, to the sponsor Departments and informally to DFP. However, since then Ilex has decided to secure outline planning approval for the site and to develop a fresh Development Framework,

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40 The Fort George site is managed by Ilex on behalf of DSD who purchased the site from Londonderry Port and Harbour Commissioners; once the site was handed back, under the terms of a lease, to the Londonderry Port and Harbour Commissioners, when declared surplus by the Ministry of Defence. It is not one of the sites transferred under the Regeneration of Sites (NI) Order 2003



in line with "One City One Plan One Voice", with a view to offering a development opportunity on the open market in 2012."

A Planner from the Department of Environment was seconded to Ilex in January 2011 and a collaborative process of preparing the Development Framework with all the key parties is now underway. The Ilex Development Framework will be set within the new regeneration plan framework where the Ebrington site is developed as a catalyst project. With the designation as City of Culture 2013 and the opening of the Peace Bridge Ilex believe there is a growing private sector interest in the Ebrington site, despite difficult market conditions.

### Expenditure to March 2011 – Costs incurred by OFMDFM

EXPENDITURE	2003/04 £'000	2004/05 £'000	2005/06 £'000	2006/07 £'000	2007/08 £'000	2008/09 £'000	2009/10 £'000	2010/11 £'000	Total £'000
Site Acquisition Cost	-	-	-	-	-	-	-	-	-
Demolition/ Clearance	-	-	70	117	765	51	-	-	1,003
Remediation/ Contamination	-	-	-	-	-	-	-	-	-
Site Management (e.g. security, maintenance, utilities and facilities)	21	594	508	524	319	269	163	823	3,219
Infrastructure and Capital Works	-	-	-	-	-	990	2,752	3,483	7,225
CPD Costs	-	-	86	70	92	-	-	-	248
Professional Fees	-	-	-	23	155	-	-	8	186
Internal Costs	73	78	73	78	71	70	69	85	597
Other Costs	-	-	-	18	73	169	56	105	421
<b>Total</b>	<b>94</b>	<b>672</b>	<b>737</b>	<b>830</b>	<b>1,475</b>	<b>1,549</b>	<b>3,039</b>	<b>4,504</b>	<b>12,900</b>
Differences may arise as a result of roundings									

## Appendix 4: Paragraph 1.17

## Ebrington

### Timeline of events / Key Delivery Dates

Date	Event
August 2002	The Partnership and Regeneration Panel was established.
December 2002	Report submitted to OFMDFM by the Partnership and Regeneration Panel.
February 2003	OFMDFM announce the establishment of an Urban Regeneration Company and noted that the Panel emphasised the need for Ebrington to be developed as part of a co-ordinated, wider development of the North West.
July 2003	The Ilex Urban Regeneration Company Limited (Ilex) set up by the OFMDFM and DSD to plan, develop and sustain the economic, physical and social regeneration of the Derry City Council area.
December 2005	Ilex launch its Regeneration Plan for Derry City Council Area
October 2006	A draft Masterplan for the Ebrington site launched
February 2009	In 2008 following a review by Sir Roy McNulty it was recognised that the existing plans for regeneration of the City were not progressing fast enough due to a lack of any guiding coalition and ownership.
June 2009	The Regeneration Plan needed to be revisited and in June 2009 a 40-member Strategy Board was set up to oversee the process and 12 Sectoral Working Groups were established to develop the Plan in detail.
November 2009	Plans for the construction of a new pedestrian and cycle bridge spanning the River Foyle announced
June 2011	The construction of a pedestrian and cycle bridge across the Foyle completed.
June 2011	New regeneration plan published – “ <i>One City One Plan One Voice</i> ” – and Peace Bridge together with the first phase of Ebrington opened.

## Appendix 5: Paragraph 1.22

# Crumlin Road Gaol

### Crumlin Road Gaol

#### Background

The 640 cell Victorian Crumlin Road Gaol was built between 1843 and 1845; its wings are three stories high at one part of the building and four stories high at another. The building is surrounded by a high five sided wall. The Crumlin Road Gaol closed its doors for the last time in March 1996.

The 13 acre site was transferred to OFMDFM in August 2003. Up to March 2004 the Crumlin Road Gaol's regeneration was managed by the OFMDFM Regeneration Team. After that date responsibility for the Crumlin Road Gaol site was assigned to the Department's North Belfast Community Action Unit, which was established within OFMDFM in August 2002, (a recommendation of an independent report on community problems in North Belfast). Through a Memorandum of Understanding<sup>41</sup> prepared in July 2005, OFMDFM set out the administration arrangements transferring operational responsibility of the Crumlin Road Gaol site and North Belfast Community Action Unit to DSD. During this period OFMDFM retained overall accountability for its budget allocations delegated to DSD.

Adjacent to the Crumlin Road Gaol site is the 14 acre Girdwood Barracks site. The Ministry of Defence withdrew from this site in February 2005 and DSD subsequently purchased it for £7 million in March



*Crumlin Road Gaol: courtesy of OFMDFM*

<sup>41</sup> A Memorandum of Understanding is a document describing a bilateral or multilateral agreement between parties. It expresses a convergence of will between the parties, indicating an intended common line of action.

## Appendix 5: Paragraph 1.22

# Crumlin Road Gaol

2006, with the aim of taking forward regeneration on an integrated basis through a master planning approach. A further payment of £350,000 was made in 2009 to purchase the freehold of the site.

A local Advisory Panel was established in early 2006, to make recommendations to Government on the development of both sites. The panel included local political, community and statutory agencies representatives.

### Plans for the site

The draft masterplan was prepared in August 2007 proposing a hotel, housing, sports and education facilities, including the expansion of the Mater Hospital and a new St. Malachy's school building. The plan also included the development of a "tourism-based project", workspace, office accommodation and social economy enterprises. The overall estimated cost of the project was £231 million with funding required from both public and private sources.

By September 2007, an environmental improvement scheme costing around £1 million had opened the whole façade of the Gaol. In June 2010 a major £2.5million scheme to restore the Gatehouse and Governor's corridor at the Gaol was announced. The restoration of these buildings will create the potential for much improved facilities for visitors to the Gaol such as exhibits room, gift shop, café and modern waiting areas. A 180-seat conference theatre in the former prison chapel and educational interactive IT areas will be available for use by the local community, schools and businesses in North Belfast and beyond.

This scheme adds to a number of conservation projects that have already been undertaken to preserve the Grade A listed Gaol buildings. Further projects are planned; the repair of the Gaol roof and walls as well as the 35 metre high ventilation chimney. The Gaol entrance at Summer Street, including the roadway at that part of Summer Street is also due to be refurbished.

### How are the plans to be delivered?

Public consultation exercises have confirmed that the Crumlin Road Gaol appears to be a project that enjoys support across all communities. However, there is as yet no local community agreement on the use of the Girdwood site. In May 2009, consultants produced an options paper for the DSD Minister, based on the draft masterplan and feedback from local communities. This paper provided detail on how the project could be taken forward.

An Equality Impact Assessment<sup>42</sup> (EQIA) completed by the North Belfast Community Action Unit in 2010, also went to public consultation and confirmed a strong consensus that the development of the Girdwood Park and Crumlin Road Gaol site is welcomed but there remains a considerable division of opinion as to how the Masterplan can be progressed to accommodate competing priorities and conflicting community needs. The element of the Masterplan which has evoked the strongest and most conflicting views concerns housing.

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42 An Equality Impact Assessment (EQIA) is a thorough and systematic analysis of a policy. Its purpose is to ensure that equality is promoted and is non-discriminatory

From 1 April 2010 the regeneration of the Girdwood Park site is being taken forward by DSD, whilst the Gaol site will remain the responsibility of OFMDFM.

OFMDFM told us that the use of the Gaol itself is the subject of considerable local goodwill and agreement, and much positive work has been done and is underway. It further explained that whilst the prospects for an agreed joint Masterplan remain to be determined, major work on the roof and walls of the Gaol is nearing completion. Work on the central core of the Gaol – the Governor’s corridor is nearing completion as well and will be the focus of activity in 2012 when the Gaol re-opens with new visitor facilities, café, museum, conferencing and space for events and local community use. A business case is being prepared for commercial market testing of a portion of the Gaol later in 2011.

### Expenditure to March 2011

EXPENDITURE	2003/04 £'000	2004/05 £'000	2005/06 £'000	2006/07 £'000	2007/08 £'000	2008/09 £'000	2009/10 £'000	2010/11 £'000	Total £'000
Site Acquisition Cost	-	-	-	-	-	-	-	-	-
Demolition/ Clearance	65	192	19	-	-	89	52	9	426
Remediation/ Contamination	-	-	-	-	-	-	-	-	-
Site Management (e.g. security, maintenance, utilities and facilities)	22	177	174	83	89	200	174	127	1,046
Infrastructure and Capital Works	-	-	105	196	852	513	1,735	3,619	7,020
CPD Costs	49	113	107	153	146	264	566	611	2,009
Professional Fees	-	57	27	154	70	15	47	10	380
Internal Costs	-	79	105	94	212	238	269	203	1,200
Other Costs	-	-	-	-	15	87	120	-	222
<b>Total</b>	<b>136</b>	<b>618</b>	<b>537</b>	<b>680</b>	<b>1,384</b>	<b>1,406</b>	<b>2,963</b>	<b>4,579</b>	<b>12,303</b>

## Appendix 5: Paragraph 1.22

# Crumlin Road Gaol

### Timeline of Events / Key Delivery Dates

Date	Event
Late 2001	North Belfast Community Action Team established to review and make recommendations on tackling social and community relations issues in North Belfast
May 2002	'Dunlop Report' published – recommended inter alia that government should develop a major mixed-use regeneration site in North Belfast
August 2003	Crumlin Road Gaol site transferred to OFMDFM (DSD lead department from 2004 – 2010)
February 2006	DSD purchase Girdwood site
March 2006	Local Advisory Panel established
August 2007	Draft masterplan submitted to DSD Minister
October 2007	Draft masterplan launched for public consultation
February 2008	DSD Minister announced Equality Impact Assessment (EQIA) on proposals for the site
October 2008	Draft EQIA launched for public consultation
May 2009	Draft EQIA including revised options for the site submitted to DSD Minister
December 2009	DSD Minister commenced discussions with OFMDFM Ministers and North Belfast political representatives on moving forward towards adoption of the draft masterplan by DSD and OFMDFM
February 2010	DSD Minister announced preliminary work on proposals for social housing on Girdwood Park site ahead of taking the proposals to the Executive
March 2010	EQIA published
April 2010	From 1 April 2010 the regeneration of the Crumlin Road Gaol/Girdwood Park site will be taken forward on the basis of the integrated masterplan approach by DSD and OFMDFM.
July 2011	Social Development Minister decides not to proceed with plans to build 200 homes on the Girdwood site

## Appendix 6: Paragraph 2.11

# Malone Road Barracks

### Malone Road Barracks

#### Background

The 2½ acre site was transferred to OFMDFM in March 2003. In 2001, on instruction from the owner of the site at the time (MOD), a public sector trawl was completed and no sustainable public sector interest was received. At that time Land and Property Services (LPS) suggested a valuation figure of £4.3 to £4.6 million with a maximum of £5 million. Once the property was transferred to OFMDFM, LPS advised that no further public sector trawl was required and a sale on the open market could proceed.

On investigating title OFMDFM established that there was a covenant not to remove the existing buildings without the prior consent of the landlord. LPS attempted to open negotiations to explore the options of either the buying out of the freehold or gaining of the necessary consent, but these were unfruitful. OFMDFM decided to continue marketing the property with the buildings remaining intact and let the purchaser deal with the covenant. The valuation was not amended by LPS at this time as it was assumed that any prospective purchaser would be made aware of the covenant through inspection and disclosure.



*Aerial view of the former security site at Malone Road: OSNI*

## Appendix 6: Paragraph 2.11

# Malone Road Barracks

### Plans for the site

OFMDFM took the decision to sell the site on the open market without planning permission. LPS was instructed to appoint agents to market the property in February 2003. The values provided for the MOD in 2001 were still considered relevant by LPS as an indication of value. At that time OFMDFM also announced that the site was to be sold and the proceeds used for economic and social regeneration of the other sites.

LPS informed us that, when marketing took place from March 2003, an initial asking price of £3.45 million was used, based on a figure provided to OFMDFM for accounting purposes. Bids were received in the range £3 million to £5.5 million and the best unconditional bid of £4.7m was received from a private developer.

In June 2003 the £4.7 million bid was accepted. However, the developer later withdrew the bid, explaining that a Tree Preservation Order limited their proposed development. This is despite all bidders being made aware of the Preservation Order ahead of the bidding process. OFMDFM's agents approached the next highest bidder who submitted a new bid of £3.6 million which was not considered acceptable in view of other interested parties. OFMDFM papers from July 2003 indicate that the site was kept on the market and re-advertised during August 2003 and, after re-advertisement, and following a recommendation from LPS, a new bid of £3.8 million from another developer was accepted in October 2003. Following the completion of the sale of the site to the successful bidder, it was immediately sold to another development company.

In January 2004 it was announced that the proceeds from the sale of the Malone Road site would be used for the economic and social regeneration of the Crumlin Road Gaol. The developer was granted full planning permission in December 2005 for 74 apartments and basement car parks.

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### Timeline of events / Key Delivery Dates

Date	Event
February 2003	Department decide to sell the site on open market without planning permission. Announced that proceeds to be used for "economic and social regeneration". LPS confirms that a valuation for the site (provided in 2001) of £4.3 to £4.6 million with a maximum of £5 million was still relevant.
March 2003	Site transferred to OFMDFM. Site marketed for an initial asking price of £3.45m
June 2003	Bids in the range of £3 million to 5 million received. A bid for £4.7 million accepted
July 2003	Developer withdraws bid citing Tree Preservation Order limiting their proposed development
August 2003	Site re-advertised in a local paper
October 2003	Bid accepted from different developer of £3.775 million
November 2003	Contract for sale of site signed
January 2004	Announced that the proceeds from the sale of the Malone Road site would be used for the economic and social regeneration of the Crumlin Road Gaol

### Expenditure to March 2011

Expenditure identified by OFMDFM amounts to £5,000 for in-house staff costs.

## Appendix 7: Paragraph 2.19

# Magherafelt Barracks

### Magherafelt Barracks

#### Background

The 7.6 acre site located on the outskirts of Magherafelt, was transferred to OFMDFM in March 2003. Ahead of the transfer, Invest Northern Ireland (INI) registered an interest in the site for development for industrial use. In September 2002 the Reinvestment and Reform Initiative (RRI) Project Board recommended the transfer of the site to InvestNI, subject to Magherafelt District Council support.

In the early part of 2003, in considering the options for the future use of the Magherafelt site, OFMDFM engaged with Magherafelt District Council and INI about the possibility of a mixed use to include a joinery centre of excellence and industrial units. The Council were supportive of the idea; however INI informed OFMDFM that it had no specific interest in acquiring ownership of the land as their property related activities in that Council area were focused on its major development at another site (The Creagh). Further options were considered including using the site for both a new school and a wood working design centre. However the latter proposal was not considered viable or sustainable.



*Magherafelt Barracks site*

In February 2003 the North Eastern Education and Library Board (NEELB) confirmed an interest in the site for a replacement building for Magherafelt Primary School. In March 2004 OFMDFM announced its proposal to offer the site to NEELB to work with the Department of Education to take forward their plans for the relocation of the local primary and nursery schools and for a new pre-school facility. This agreement was dependant on the current Primary School site, or proceeds from its sale, being passed to OFMDFM. The site was valued by the LPS in April 2004 at £1.5 million which reflected access to the site being over land owned by a third party which may require a key land payment.

An examination of the title to the site by the Education and Library Boards Solicitors identified a number of concerns, including the duration and terms of a lease on the site; access to the site; contamination issues; and the presence of a water main across the site.

NEELB was not prepared to accept the site without planning approval. It submitted an outline planning application in July 2005, following discussions with its consultants, Planning Service and OFMDFM. This was supported with a detailed business case for the education campus; required to indicate that no suitable alternative sites were available for the two schools in the area. Outline planning permission followed in May 2006.

OFMDFM considered that under Government Accounting rules it was not (and never would have been) possible to give NEELB the site and receive the proceeds from the sale of the old school site as reimbursement. OFMDFM were also of the view that, following devolution, disposal of such sites required local ministerial approval. In February 2006 OFMDFM moved to a straight sale of the site to NEELB at current market value and with the proceeds from the sale being deployed for other regeneration purposes (subject to DFP approval).

In October 2008 the land was valued by LPS at £1.5 million for educational use and £7.5 million for residential use. To ensure the land could not be resold for profit, the sale to NEELB was by way of a 999 year lease restricting the use of the land to educational purposes only. The site full planning permission was obtained in February 2009.

### **Plans for the site**

The sale was eventually completed in February 2010 for £1.2 million, less £250,000 for site remediation costs, calculated by consultants appointed by NEELB, which were considered reasonable by CPD. However we noted that CPD also advised OFMDFM to commission its own independent report if it required a more up-to-date assessment. The proceeds from the sale were to be deployed for other regeneration purposes. OFMDFM submitted a business case to DFP on 1st February 2010. DFP approval to the sale followed on 9 February 2010.

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## Appendix 7: Paragraph 2.19

# Magherafelt Barracks

A replacement scheme for a primary and a nursery school was announced by the Department of Education in April 2004. The estimated cost of the project is £4.8 million. Funding for both the site purchase and capital works is being provided by the Department of Education.

A revised economic appraisal for the project was approved by DFP in January 2011. Construction work on the site is underway, with an estimated completion date of around November 2012.

### Expenditure to March 2011

#### Costs incurred by OFMDFM

EXPENDITURE	2003/04 £'000	2004/05 £'000	2005/06 £'000	2006/07 £'000	2007/08 £'000	2008/09 £'000	2009/10 £'000	2010/11 £'000	Total £'000
Site Acquisition Cost	-	-	-	-	-	-	-	-	-
Demolition/ Clearance	-	-	-	-	-	-	-	-	-
Remediation/ Contamination	-	-	-	-	-	-	-	-	-
Site Management (e.g. security, maintenance, utilities and facilities)	7	3	-	2	3	5	16	-	<b>36</b>
Infrastructure and Capital Works	-	-	-	-	-	-	-	-	-
CPD Costs	2	-	-	-	-	1	-	-	<b>3</b>
Professional Fees	-	-	-	-	-	-	-	-	-
Internal Costs	-	-	-	-	-	-	-	-	-
Other Costs (Lease)	3	8	5	3	2	-	-	-	<b>21</b>
<b>Total</b>	<b>12</b>	<b>11</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>6</b>	<b>16</b>	<b>0</b>	<b>60</b>

**Costs incurred by NEELB**

<b>EXPENDITURE</b>	<b>2003/04 £'000</b>	<b>2004/05 £'000</b>	<b>2005/06 £'000</b>	<b>2006/07 £'000</b>	<b>2007/08 £'000</b>	<b>2008/09 £'000</b>	<b>2009/10 £'000</b>	<b>2010/11 £'000</b>	<b>Total £'000</b>
Site Acquisition Cost	-	-	-	-	-	-	1,155	-	<b>1,155</b>
Demolition/ Clearance	-	-	-	-	-	-	-	50	<b>50</b>
Remediation/ Contamination	-	-	-	-	-	-	-	24	<b>24</b>
Site Management (e.g. security, maintenance, utilities and facilities)	-	-	-	-	-	-	-	21	<b>21</b>
Infrastructure and Capital Works	-	-	-	-	-	-	-	-	-
CPD Costs	-	-	-	-	-	-	-	-	-
Professional Fees	-	-	6	46	101	157	20	81	<b>412</b>
Internal Costs	-	-	-	-	-	-	3	8	<b>11</b>
Other Costs	-	-	-	-	-	-	-	-	-
<b>Total</b>	-	-	<b>6</b>	<b>46</b>	<b>101</b>	<b>157</b>	<b>1,178</b>	<b>184</b>	<b>1,673</b>
Differences may arise as a result of roundings									

## Appendix 7: Paragraph 2.19

# Magherafelt Barracks

### Timeline of events / Key Delivery Dates

Date	Event
September 2002	RRI Project Board recommended the transfer of the site to InvestNI, subject to Magherafelt District Council support
February 2003	NEELB confirmed an interest in the site for a replacement building for Magherafelt Primary School
March 2003	Site transferred to the Office of the First Minister and Deputy First Minister Invest NI informed the Department that it had no specific interest in acquiring ownership of the land
March 2004	Department announce that further options were considered including using the site for both a new school and a wood working design centre. However the latter proposal was not considered viable or sustainable. Department announced its proposal to offer the site to NEELB to work with the Department of Education to take forward their plans for the relocation of the local primary and nursery schools and for a new pre-school facility This agreement was dependant on the current Primary School site, or proceeds from its sale, being passed to the Department
September 2005	Department considered that under Government Accounting rules it was not (and never would have been) possible to give NEELB the site and receive the proceeds from the sale of the old school site as reimbursement.
February 2006	Department moved to a straight sale of the site to NEELB at current market value and with the proceeds from the sale being deployed for other regeneration purposes (subject to DFP approval)
May 2006.	Outline planning permission granted
October 2008	Land was valued by LPS at £1.5 million for educational use and £7.5 million for residential use
February 2009	Following a protracted consultation process and concerns regarding contamination on and access to the site, full planning permission was obtained
February 2010	OFMDFM Submit business case to DFP. DFP Approval obtained.
February 2010	Based on an LPS valuation, the sale was completed for £1.2 million, less £250,000 estimated remediation costs

## Appendix 8: Paragraphs 2.9 and 2.10

### Disposal of Surplus Land and Buildings by Public Sector Bodies

#### Extract from September 2001 Guidance issued by DFP Land and Property Services

#### 20.0 Clawback

20.1 Where there are, or are likely to be, unusual delays in resolving uncertainties about the planning permission of a property which is considered to have development potential, or where there is doubt as to the use which would generate the best price, a public body may decide that it should sell the property without the benefit of planning permission before those uncertainties have been resolved.

Where this is the case the public body should carefully consider, in the interests of the taxpayer, whether they should seek to secure from the purchaser, by suitable wording of the disposal terms, part of any increase in value which is realized subsequent to the original disposal.

This can be achieved by various methods which will depend on the particular circumstances of the case. These methods may include:

- (i) selling land subject to a restriction on use – the normal scenario here is that a developer would want to change the use so as to maximise the development potential of the land. In order to change the use he would have to buy out the restrictive covenant and the disposing body would therefore share in the full development value of the land.
  - (ii) selling land subject to a restriction on access (sometimes referred to as “ransom strips”) – similar to (i) but the restriction is physical rather than legal in nature. The disposing body would in this case sell its land but retain a narrow strip, usually along the road frontage. Again the developer would have to buy out this remaining interest in order to achieve his aims.
  - (iii) selling an option to purchase – there may be circumstances where it is in the disposing body’s interest to retain legal ownership of the surplus land but to sell an option to purchase to a developer. This might be the chosen method where the land being disposed of has complex planning issues attaching to it and where the property market is buoyant. The eventual full disposal would be triggered by some future event, for example the obtaining of planning permission, resulting in payment of the market value for the permitted use (less the amount already paid for the option) assessed at the relevant time.
  - (iv) disposal via a developer’s brief and/or a building agreement – this is a method often used in urban situations where the public sector is keen to influence the type of development which
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## Appendix 8: Paragraphs 2.9 and 2.10

takes place on the surplus land. This should be a relatively rare occurrence and would be influenced by the strategic importance of the site in question.

Typically a developer will make a down-payment for the land of a relatively small percentage of its open market value. The balance will then be paid in stages as the development proceeds. The District Valuer will be able to give an assessment of the likely effect of the above schemes on the sale price.

- 20.2 In cases where land has been sold with planning permission disposing bodies will also wish to consider with the appropriate professional advisors whether a clawback provision should be included to cover the purchaser significantly enhancing a planning consent to his advantage, should this seem to be a possibility.
- 20.3 All schemes aimed at securing the disposing body a share in the development value of surplus land depend on the definition of a "trigger event" e.g. the obtaining of planning permission. This definition requires careful drafting and sound legal advice is essential.
- 20.4 Another aspect of disposing of some surplus public sector property can be a difficulty in gauging the commercial potential of property which has been used in the past for a purpose which is peculiar to the public sector. Increases in market demand can lead to an unforeseen increase in the value of the property after it has been sold.

For those reasons, a public body which has sold property for a price on terms which were defensible at the time of sale may be criticised if the property is later resold for a higher price or used for a purpose which suggests that a higher price could have been obtained by the disposing body. Once again this sort of scenario can usually be avoided by good advice and, possibly, use of one of the clawback schemes described above.

- 20.5 The failure of disposing bodies to secure a share in the development value of surplus land has in the past attracted audit criticism. These cases tend to produce difficult issues and raise questions to which there may be no single correct solution. To minimise the risk of criticism bodies should follow these guidelines and obtain good advice.
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Published by TSO (The Stationery Office) and available from:

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ISBN 978-0-337-09763-8



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