

THE ROLE OF THE
ELECTED MEMBER
IN MAKING
CITY AND COUNTY
DEVELOPMENT PLANS

JIM KEOGAN
FEBRUARY 2020

INTRODUCTION

- RESERVED AND EXECUTIVE FUNCTIONS
- CONTENT OF A PLAN
- TIMELINES
- PROCEDURES
- CONSULTATION/LOBBYING
- CONCLUSION/ISSUES

RESERVED AND EXECUTIVE FUNCTIONS

RESERVED FUNCTIONS

Under successive Local Government Acts the powers and responsibilities of local government were divided into Reserved and Executive functions

- ✓ Reserved functions are solely the responsibility of the Elected Members
- ✓ These functions relate for the most part to issues of policy e.g.:
- ✓ Decisions on rates including the annual rate on valuation to be levied, decisions in relation to refunds for vacant premises, waivers of rates and payments by instalment
- ✓ Approving the corporate plan
- ✓ Special amenity area orders, landscape conservation area orders
- ✓ Housing decisions
- ✓ Development plans
- ✓ Development contribution schemes
- ✓ Planning schemes for Strategic Development Zones
- ✓ Variation of the rate of Local Property Tax

RESERVED AND EXECUTIVE FUNCTIONS

- Planning is divided into 3 components:
 - **FORWARD PLANNING**
 - City & County Development Plans
 - Local Area Plans
 - Strategic Development Zones
 - **DEVELOPMENT MANAGEMENT OR CONTROL**
 - The processing of Planning Applications
 - **THE ENFORCEMENT OF PLANNING CODE**
- Forward planning is a reserved function, whereas decisions on Planning Applications and Enforcement are executive functions
- The only non-policy planning matter that is a reserved function is the Part 8 process which relates to works proposed to be carried out by a Planning Authority

CONTENT OF A PLAN

- **Outlines a set of policies and objectives to secure the proper planning and sustainable development of the area of the Development Plan:**
 - Must contain a 'Written Statement'
 - Must contain a set of development objectives (mandatory) e.g. land use, housing, heritage, etc.
 - Must include a Housing Strategy
 - Must include a Settlement Strategy for future population growth in the form of a Core Strategy
 - Plan must be consistent with National and Regional Plans
 - Plan must comply with Ministerial Guidelines (Section 28 SPPRs)
 - Members in making the Plan are restricted to considering the proper planning and sustainable development of an area.

TIMELINES

TIMESCALE

- 6 year cycle - 2 year progress report
- 2 year review process which commences after 4 years
- **Stages* Three separate stages of public consultation**
 - Issues Paper* - gives direction
 - Pre-draft Development Plan – members only
 - Draft Development Plan*
 - Amendments*
 - Adoption – members only
- **Four Distinct Sectoral Interests**
 - The citizen
 - The property owner
 - The Minister (including the Office of the Planning Regulator)
 - The Executive – to ensure that the integrity of the process is not undermined

PROCEDURES

❖ **Members determine Standing Orders (reserved function). Provision can include the following:**

❖ Holding of meetings

❖ Time and place of meetings

❖ Summoning and notification of meetings

❖ Public notice of meeting

❖ Order of Business

❖ Notices of motion (amending and revoking)

❖ Votes and divisions

❖ Attendance of the public and media

❖ **Members can amend Standing Orders for special meetings of Council to review Development Plan, e.g.**

❖ Number/Notice of motions

❖ Motions must refer to a submission

❖ Motions must include a reason

❖ Reason has to be related to the proper planning and sustainable development of the area

❖ Reason does not have to be elaborate, e.g. reason for including conditions attached to a Grant of Planning Permission - short and simple

Executive may advise on the composition and content of a Motion and Reason

PROCEDURES

- **Terms**

- **Ultra vires – illegal or outside the law, e.g.**

- no reason given in motion
 - motion refers to a separate code other than Planning, such as Fire Regulations

- **Out of Order e.g.:**

- not received in time
 - motion does not relate to a submission received in connection with the Public Consultation process

- **Conflict of Interest**

- Executive can advise of potential conflicts
 - Matter for Members to exercise and regulate
 - Where there is a potential conflict, the procedure is clear - declare and leave the meeting

CONSULTATION/LOBBYING

- Members, to fulfill their statutory duties in considering and making a Plan must engage with the participants - citizens, property owners, the Minister, and the Executive
- The review process involves three separate public consultation stages
- The submissions are a matter of public record
- The purpose of the Lobbying Act is to ensure transparency - the review process involving public consultation stages provides for this
- Onus is on Lobbyists to declare and submit records under the Act
- Advisable for Members to keep a note/record of such meetings (not necessary during the statutory Public Consultation period in the making of a Development Plan)

CONCLUSION/ISSUES

- The Executive are there to assist and cooperate with the Members to ensure the Development Plan which is adopted is compliant with statutory obligations and with due process and procedure
- The advances in I.T. and social media, while welcomed, do pose significant pressure on both the Members and the Executive in maintaining the integrity of the process
- The role of the Member in making a Development Plan is central to our system of Local Government
- There is a risk that Members become unduly influenced by coordinated pressure groups who are seeking Decisions that are contrary to the proper planning and development of the area
- Such pressure might result in undermining the integrity of the Development Plan if the Members act in an improper way
- The provisions of the Lobbying Act as they pertain to plan-making should be suspended during the entire Statutory Review period
- The central requirement of the plan-making process is that the members have due regard to the proper planning and sustainable development of their area