

# A GUIDE TO THE PLANNING PROCESS

Office of the Planning Regulator



**Oifig an  
Rialaitheora Pleanála**  
Office of the  
Planning Regulator

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## 1. What is planning

Planning is primarily concerned with places, both urban and rural, and how they change and develop over time in meeting the changing needs of our society, economy and environment.

As outlined in the Government's Planning Policy Statement of 2015, planning has a critical balancing role to play when competing interests put forward differing views on future development options.

By focusing on the interests of the common good for proper planning and long-term sustainable development, the planning system can arrive at equitable, balanced and transparent decisions on the best way forward.

Planning legislation in Ireland therefore seeks to ensure, in the interests of the common good, the proper planning and sustainable development of urban and rural areas.

A development plan will steer investment in an area for a six-year period. Planning is at the forefront of creating sustainable futures for society, developing policy and practices to mitigate against climate change and creating places that combine environmental quality, with a vibrant economy and good quality of life.



## 2. Legislation

The legal framework for the planning system in Ireland is the Planning and Development Act 2000, as amended (the Act). The Act states that the purpose of the legislation is “to provide, in the interests of the common good, for proper planning and sustainable development”, though no definition of “sustainable” is given.

The principal regulations underpinning the Act are the Planning and Development Regulations 2001 to 2019. These regulations are amended regularly to put legislative changes into effect or to update guidance to planning authorities.

## 3. National Planning

The Department of Housing, Planning and Local Government is responsible for issuing national planning policy and guidance. Government published the National Planning Framework as the strategic planning direction for the country. The Minister for Housing Planning and Local Government also issues statutory guidelines under section 28 of the Act, which provide national guidance to planning authorities in carrying out their functions.

## 4. National Planning Framework, 2018

The National Planning Framework (NPF), 2018, and the National Development Plan, 2018 – 2027, form Project Ireland, 2040. Project Ireland 2040 sets out the government’s national planning and infrastructure vision for the next 20 years.

The NPF, 2018, sets out the strategic direction for future development at a national level. The NPF is supported with capital investment<sup>1</sup>, which will ensure alignment between planning and infrastructure. The overall population of Ireland is expected to grow by one million over the next three decades, the NPF seeks to disperse growth to regional cities and towns. Dublin will see 25% of the planned growth, with a further 50% of growth to occur in key regional centres, towns, villages and rural areas.

The NPF is the statutory national level plan to structure and co-ordinate development across urban and rural areas with a particular focus on making the cities, towns and villages across our country more viable and attractive places to live and work. National Policy Objective (NPO) 3c requires that delivery of ‘at least 30% of all new homes are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints’.

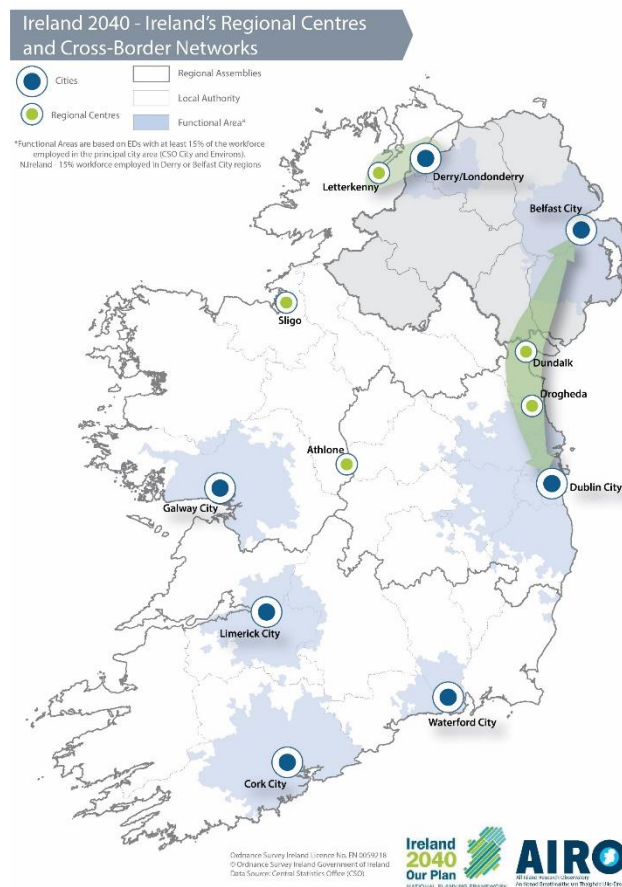
The National Planning Framework also sets out 10 National Strategic Outcomes as follows:

- Compact Growth
- Enhanced Regional Accessibility

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<sup>1</sup> National Development Plan, 2018 - 2027

- Strengthened Rural Economies and Communities
- Sustainable Mobility
- A Strong Economy supported by Enterprise, Innovation and Skills
- High-Quality International Connectivity
- Enhanced Amenity and Heritage
- Transition to a Low Carbon and Climate Resilient Society
- Sustainable Management of Water, Waste and other Environmental Resources
- Access to Quality Childcare, Education and Health Services



## 5. Regional Planning

Ireland's Regional Authorities had statutory roles in relation to preparing regional planning guidelines (RPG's). They were re-shaped into three Regional Assemblies in 2015, representing the, Eastern and Midlands, Northern and Western and the Southern Regions.

Under the National Planning Framework, RPGs are to be replaced by regional spatial and economic strategies (RSEs). The regional assemblies must make a regional spatial and economic strategy for each of their respective areas. Previously local authorities were only required to “have regard to” RPGs and were not required to comply rigidly with their recommendations. However, 2018 amendments to the Act impose more stringent requirements on local authorities to ensure development plans adhere to national or regional spatial and economic policies and ‘Section 28’ guidelines.



## 6. Local Government

The functions of local government are divided between the reserved functions of elected members and the executive functions of chief executive officers and staff. The reserved functions of elected members include certain policy and financial matters such as the making of a development plan and the adoption of a budget, whereas the executive is responsible for the day-to-day management and administration of the local authority.

Local authorities use development plans as their main policy document in relation to planning. Development plans set out the overall core strategy and specific objectives for the proper planning and sustainable development of the entire functional area of the local authority. The plan consists of a written statement, which sets out the policies for the county/city, and maps,

which indicate zonings for different types of development, for example, residential, industrial and amenities such as parks.

## 7. Development Plan

The development plan is the main spatial policy document that sets out the local authority's policies and proposals for the development and use of land in their area over a 6-year period. The development plan guides and shapes day-to-day decisions in relation to planning applications, under the system known as development management. In order to ensure that these decisions are rational and consistent, they must be considered against the development plan adopted by the authority.

The development plan must recognise the wider policy context and set out a strategic spatial framework – a clear view ahead in development terms for the area the development plan covers. This spatial framework, while acknowledging wider social, economic and environmental trends, needs to focus on big picture planning issues, possibilities and considerations that will underpin how the development process in that area is to be structured in order to achieve the plan's objectives for the wider community.

The plan creates the vision for the area it covers, specifies the types, amount and quality of development needed to achieve that vision and seeks to protect and enhance the environment and amenities. It creates the policy framework and necessary degree of certainty within which individual development decisions can be made over the life of the plan.

Section 10 of the Act sets out a list of mandatory objectives that must be included in the plan. The mandatory objectives for the content of the plan include the following:

- Zoning provisions
- Infrastructure
- Environment
- Social, Community and Cultural Considerations
- Preservation of Landscape Character
- Protection of Structures
- Preservation of Architectural Conservation Areas
- Regeneration
- Traveller Accommodation
- Amenities
- Major Accidents Directive
- Community Services
- Gaeltacht Areas
- Climate Change
- Public Rights of Way
- Landscape

The development plan may indicate objectives for any of the purposes referred to in the first

schedule of the Act, including the promotion of sustainable settlement and transportation strategies in rural and urban areas.

## **8. Local Area Plans**

Good planning requires strong plans with a clear vision for the future. Local authorities are responsible for preparing and adopting local area plans (LAP). A LAP is similar to a development plan, but it looks at a smaller area, in a more detailed way. It identifies and analyses issues of relevance to the specific area, before setting out principles for its future development. A LAP is required for any designated town with a population in the range of 2,000 - 5,000. LAPs can be reviewed or amended at any time, provided the planning authority follows the public consultation procedures set down in the Act.

## **9. Strategic Development Zones**

Sites for Strategic Development Zones may be designated by the Government (under section 166 of the Act) to facilitate development of economic or social importance to the State. Within two years of such a designation, the relevant development agency (which may be the local authority) may prepare a draft planning scheme under section 169. The form and content of such a planning scheme is set out in section 168.

## **10. Development Management**

Development management is a positive and proactive way of controlling development and managing the use of land and property.

### **10.1 Exempted Development**

The Act and the Regulations also set out certain developments, which do not require planning permission. These types of developments are known as exempted development and include types of development in the following categories:

- Domestic development
- Agriculture and related rural development
- Temporary structures and uses
- Development by statutory undertakers
- Advertisements
- A limited number of changes of use

### **10.2 Pre-planning**

Any person with an interest in a piece of land who intends to make a planning application may consult with the planning authority about any proposed development in relation to the land, and the planning authority may give advice to that person regarding the proposed application. Pre-application consultations facilitate successful applications in that they give the local authority the opportunity to explain to an applicant the type of development that is likely to be acceptable according to the development or local plan. Local authorities are obliged to keep a record in writing of consultations that relate to a proposed development. This record is kept



with the documents relating to that or any subsequent planning application.

### **10.3 Planning Applications**

Most forms of development require planning permission from a Local Authority. Decision-making on individual planning applications is an executive function within the local authority. Any person / interest group can make a submission / objection to a planning application subject to a €20 fee. All applicants are entitled to a decision within timeframes set by the Act. Local elected members are exempt from this fee.

### **10.4 Enforcement**

Enforcement is a planning function carried out by local authorities. The objective of enforcement is to address any unauthorised development which has been or is being carried out and to ensure that permitted development complies with its permission and conditions. Effective planning enforcement is a key activity in development management in ensuring that the strategic vision is not undermined by inappropriate or prejudicial development. Persons who do not comply with various statutory enforcement orders can be prosecuted and subject to a variety of penalties.

## **11. Part 8 Process**

Certain local authority own project types are subject to a public consultation process, known as the Part 8 process, under the Planning Regulations. The procedure is set out in Part 11, section 179 of the Act. This procedure requires that notice of the proposed development shall be given in an approved newspaper and that a site notice be erected on the land on which the proposed development would be situated.

Following the consultation period, the chief executive of the local authority will prepare a report which will summarise submissions or observations received and the report is presented to the members of the authority. This report recommends whether or not the proposed development should proceed as proposed, or should not be proceed. Following consideration of the report, the proposed development may be carried out as recommended in the report, unless the local authority, by resolution, decides to vary or modify the development, otherwise than as recommended in the report, or decides not to proceed with the development.

## **12. An Bord Pleanála**

An Bord Pleanála (ABP) is an independent national planning body that deals with appeals of decisions made by city and county councils in respect of planning applications which have been lodged with them. ABP also deals with certain applications, which are made directly to the Board, as outlined below.

Planning appeals arise from decisions by planning authorities on planning applications for

permission for the development of land (including applications for the retention of structures or the continuance of uses). Appeals fall into four categories, namely:

- First party appeals against decisions of planning authorities to refuse permission
- First party appeals against conditions proposed to be attached to permissions by planning authorities
- First party appeals against financial contribution conditions
- Third party appeals, which are normally against decisions of planning authorities to grant permission

ABP has statutory timeframes, as set out in the Act, to decide on appeals. The Board may, having regard to public interest or the complexity of a case, hold an oral hearing to determine an appeal.

ABP is also the consent authority in relation to strategic developments and Local Authority Projects, i.e. Part 8 projects that require Appropriate Assessment and Environmental Impact Assessments<sup>2</sup>. This includes:

- Strategic Infrastructure Development
- Strategic Housing Development (100+ residential units & 200+ student units)
- Local Authority Projects

## 13. Office of the Planning Regulator (OPR)

The OPR was established in April 2019, and is primarily an oversight planning body responsible for ensuring proper planning and sustainable development and ensuring that the NPF, 2018, is implemented.

The Office of the Planning Regulator has a range of functions, including:

- independent assessment of all local authority and regional assembly forward planning, including the zoning decisions of local authority members in local area and development plans;
- conducting reviews of the organisation, systems and procedures used by any planning authority or An Bord Pleanála in the performance of any of their planning functions under the Act, including risks of corruption and on foot of individual complaints from members of the public; and
- driving national planning research, education and public information programmes to highlight the role and benefit of planning.

In performing its functions, the OPR will take into account the objective of contributing to proper planning and sustainable development and the optimal functioning of planning under the Act.

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<sup>2</sup> The EIA Directive and The Habitats Directive were transposed into the Planning and Development Act, 2000 – 2019.

## 13.1 General functions of the OPR

Section 31P of the Act sets out the following functions of the OPR:

- to conduct research, including research at the request of the Minister and to arrange education and training programmes in planning;
- to review the performance by the Board and planning authorities of their respective functions;
- to oversee the delivery of effective planning services to the public by planning authorities;
- to report annually on the performance of its own functions;
- to prepare a strategy statement;
- to make any observations, as appropriate, in relation to planning legislation, guidelines or guidance, and directions issued by the Minister; and
- additional functions as may be specified in Ministerial Order.

# APPENDIX 1

## Procedural issues and the making of a development plan

The making, reviewing and varying of the plan is a function reserved for the elected members of the planning authority.

The Act requires that the planning authorities must commence a review of the plan within four years and make a new plan every six years.

The members make the plan which is prepared on their behalf with the input of their officials (the chief executive, planners, engineers etc.), and following extensive public consultation.

The planning authority officials prepare a draft document, based on a detailed survey and analysis of the area and on submissions from the public and from public and local bodies. Following approval of this by the elected members as a draft plan (by majority vote) it is put on public display for at least 10 weeks in the planning authority offices. Any person may comment on this draft.

The elected members, who may change the draft plan based on the Manager's report or their own views, will take all comments into consideration. If the draft is materially altered (i.e. significantly changed), the amendments go on further public display for at least 4 weeks, during which time fresh public comment may be made on these changes. Following consideration of any new comments, the plan is formally adopted by the councillors and becomes the official development plan for the area. Any person, even if not living in the plan area, can make written objections or representations to the planning authority during the review and display periods.

The process of making the plan and consideration of material amendments by the members is subject to a requirement that the members restrict themselves to the consideration of the proper planning and development of the relevant area, Government policy and legislative requirements relating to national and European law, particularly in relation to environmental directives.

## What is a material contravention of the development plan?

The planning authority is obliged to secure the objectives in its development plan. While an individual planning application may not comply with particular objectives of the development plan, the planning authority might still consider a given proposal to be in line with the wider proper planning and development of the area. The planning authority may then decide to permit the proposal as a material contravention of the plan, following public consultation. In this case, the planning authority must publish notice of its intentions in a newspaper circulating in the local area.

Any person may make objections or representations to the planning authority within 4 weeks of the public notice. The planning authority must consider all these comments. In order to pass a resolution to grant permission in such cases, three quarters of all councillors must vote in favour of the proposal. If the local authority wishes to undertake development of its own which would contravene the plan, it must review the plan and follow the procedures set out above.