



To: Chief Executives, City and County Councils  
Directors of Planning Services, City and County Councils  
Senior Planners, City and County Councils  
An Bord Pleanála

**Circular letter PL 2/2017**

31 May 2017

**Re: Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans**

I am directed by the Minister for Housing, Planning, Community and Local Government to refer to the above matter and specifically to the application of the “local housing needs residency criteria” in section 3.2.3 of the 2005 Guidelines in the consideration of planning applications for houses in rural areas – particularly urban generated rural housing in those areas under pressure in the environs of cities and towns - and also in the context of future variations or revisions to development plans.

As you may be aware, the European Commission originally issued an infringement notice against Ireland in 2007 in relation to the “local needs criteria” in the 2005 Guidelines. This infringement notice was subsequently deferred pending the outcome of an infringement case taken against Belgium, now referred to as the Flemish Decree case and on which the European Court of Justice (ECJ) delivered its Judgement in 2013. In this regard, the Decree linked the transfer of property in certain Flemish communes to the condition that there should exist “a sufficient connection” between a prospective property buyer and the relevant commune. This had the practical effect of creating difficulties and barriers for non-locals in the purchasing of property in the Flemish communes in question. In its 2013 Judgement, the ECJ ruled that the Flemish Decree constituted an unjustified restriction on fundamental freedoms under the Treaty on the Functioning of the European Union (the EU Treaty), in particular that it breached article 43 of the EU Treaty on the freedom of movement of citizens.

Further to the ECJ Judgement in this case, the European Commission has re-engaged with the Department regarding the 2007 infringement notice and its previously expressed concerns in relation to the “local needs criteria” in the 2005 Guidelines, particularly requirements incorporated in local authority development plans further to these criteria that persons wishing to apply for planning permission for a house in designated rural areas should fulfil a prior minimum residency requirement in the rural area in question or have familial ties to that specific rural area. Requirements that planning applicants have occupational or employment related ties to the rural area in question is not considered problematical in this context as such criteria are non-discriminatory between locals and non-locals.

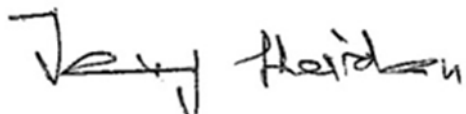
In order to avoid the up-scaling of the previous infringement notice against Ireland and referral of the matter to the ECJ for determination, it is considered necessary to speedily revise the 2005 Guidelines to ensure that rural housing policies and objectives contained in local authority development plans comply with article 43 of the EU Treaty on the freedom of movement of citizens.

To this end, a Working Group comprising representatives nominated by the LGMA LUTS Committee and from the Department has been established to review and, where necessary, recommend changes to the 2005 Guidelines. On conclusion of the Group's review and consultations with planning authorities, the Department will engage with the European Commission on proposed changes to the Guidelines, with a view to issuing replacement text on section 3.2.3 of the Guidelines to planning authorities in the second half of 2017, which will be in the form of a further Circular Letter to planning authorities.

It is also anticipated that Ireland 2040 – Our Plan, the proposed new National Planning Framework (NPF)), which is presently at an advanced stage of formulation, will further assist in informing the revision of the 2005 Guidelines in terms of outlining the overall policy approach for development in Rural Ireland reflecting on the inter-relationships between urban and rural locations including access to employment, housing, services and recreation.

When these two processes are finalised, the revised guidance on rural generated housing will – as normal - be issued under section 28 of the Planning and Development Act 2000, as amended, and planning authorities, and where appropriate An Bord Pleanála, will be required to have regard to the revised guidance in the performance of their statutory planning functions under the Act.

In light of the foregoing, planning authorities are hereby advised that the existing 2005 Guidelines remain in place and that pending the conclusion of the above two national policy review processes (the Working Group deliberations and the publication of the NPF) and advised otherwise by the Department, they should defer amending their rural housing policy/ local housing need criteria in existing statutory development plans either by way of the cyclical review or variation procedures. This is considered prudent in order to avoid planning authorities adopting different approaches on the matter in the interim.



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Planning Policy

