



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

OPR Pilot Programme of Reviews of Local Authorities' Systems and Procedures in the Performance of Planning Functions

Review of Tipperary County Council under section 31AS of the Planning and Development Act 2000, as amended

September 2021



Contents

Introduction	2
Overview of Key Findings	7
Organisation of the Planning Department	11
Forward Planning	14
Guidelines and Directives	20
Control of Development	22
Architectural Heritage	32
Land Activation	36
Planning Enforcement	41
Environmental Assessment	46
Part XI	51
Part 8: local authority own-development	51
Taking-in-Charge	53
Amenities	58
Events and Funfairs	61
Part XVIII – Miscellaneous Provisions	62
Appendix 1: List of Recommendations	64



Comhairle Contae Thiobraid Árann
Tipperary County Council

Introduction

Background

The Office of the Planning Regulator (OPR) was established by the Oireachtas in 2019 for a number of purposes including independently overseeing the delivery by planning authorities of planning services to the public.

Chapter IV ('Review of Planning Functions') of Part IIB of the Planning & Development Act 2000, as amended, ('the Act'), in particular section 31AS of the Act, gives the OPR the discretion to review the systems and procedures used by local authorities and An Bord Pleanála in performing their planning functions.

As committed to in our Strategy Statement 2019-2024, the OPR is implementing a programme of reviews under section 31AS of the Act whereby, broadly over a six-year cycle, each authority will be reviewed in respect of the systems and procedures used in the performance of its statutory planning functions.

To guide and give structure to the reviews programme, we published the OPR 'Pilot Methodology for Conducting Reviews of Local Authorities' Systems and Procedures in relation to the Performance of Planning Functions' in 2020, following consultation with the Department of Housing, Local Government & Heritage (DHLGH), the National Oversight & Audit Commission (NOAC), the local government sector, An Bord Pleanála and the national planning institutes.

Scope

Under this methodology, reviews conducted in accordance with section 31AS of the Act focus on the systems and procedures used by local authorities in their current operations to deliver planning functions only.

The implementation of the reviews programme is intended as a resource for the planning sector, identifying good practice and achievements, and promoting such learning between authorities, as well as highlighting areas that may be in need of improvement.

It is important to stress that an OPR review is strategically and improvement-focused, designed to complement and add value to the Council's own performance and improvement plans. While the findings of this review report draw upon knowledge available to the OPR in the delivery of our broad statutory remit as well as published statistics, the report principally reflects the information presented by Tipperary County Council to the OPR.

This general review of Tipperary County Council's planning functions is the first to be conducted as part of the pilot phase of the review programme, which will include four authorities. Tipperary County Council was considered as very suitable for inclusion in the pilot phase of the programme given its location straddling both the south-east and mid-west parts of the Southern Regional Assembly area, the variety of urban and rural contexts, the recent re-organisation arising from the merger of North and South Tipperary County Councils, and its reputation for innovation in service delivery issues such as the current piloting of the national e-Planning initiative.

Ratings and recommendations

The reviews programme does not set out to create a league table of local authorities with regard to performance. Nevertheless, for any review to be meaningful and to give authorities a benchmark with regard to improving services, the OPR will apply a rating in respect of performance across 11 key operational processes in planning service delivery. These 11 processes are as follows:

1. Forward Planning
2. Guidelines and Directives
3. Control of Development
4. Architectural Heritage
5. Land Activation
6. Planning Enforcement
7. Environmental Assessment
8. Part XI – Local Authority own-development and Taking-in-Charge
9. Amenities
10. Events and Funfairs
11. Part XVIII – Miscellaneous Provisions

The ratings are defined as follows:

- **Highly effective:** alongside robust systems and procedures, the Council demonstrates a commitment to continued improvement and innovation, and resources are used to proactively enhance service delivery. Aspects of the Council's performance represent practice that could be an example to other authorities.
- **Effective:** systems and procedures are considered adequately robust to effectively deliver statutory functions on an ongoing basis and to meet key business objectives.
- **Some Improvement Needed:** while the function is generally being delivered effectively, procedural weaknesses are noted which, in the absence of improved controls, could lead to a failure to deliver services appropriately.
- **Unsatisfactory:** insufficient evidence of an appropriate standard operating procedure in place, thereby creating an unacceptable weakness with regard to ability to adequately deliver the statutory function.

Regardless of the rating applied, recommendations may be made as part of the review indicating how systems for delivering operational process could be improved or how current standards may be maintained. A collated list of recommendations made in this report is provided in Appendix 1. These recommendations are also graded by the level of priority that the Council should assign them, as follows:

- **Critical:** immediate implementation of the recommendation is required to resolve a critical weakness which may be impacting the delivery of statutory functions.
- **High:** the recommendation should be addressed urgently to ensure that the identified weakness does not lead to a failure to deliver on statutory requirements.

- **Medium:** the recommendation should be considered in the short-term with a view to enhancing the effectiveness of service delivery.
- **Low:** the recommendation relates to an improvement which would address a minor weakness and should be addressed over time.
- **Advisory:** the recommendation does not have a serious impact for internal systems and procedures but could have a moderate impact on operational performance. On this basis, the recommendation should be considered for implementation on a self-assessed basis.

Process

The effect of the Covid-19 pandemic on the conduct of this review must be acknowledged. Local authorities have been on the frontline of the response to the pandemic and have been agile in maintaining services to local communities despite the impact of the public health restrictions on both organisations and individuals. This includes local authority planning departments which have had to keep the planning process open, ensuring that public participation could be maintained, while also implementing short-term measures to support economic recovery and place-making.

This review was conducted over a period of approximately six months. Tipperary County Council provided detailed information in relation to the systems and procedures used in the delivery of its planning functions. Throughout the review process, the OPR and the Council engaged regularly to share information and seek clarifications. The OPR conducted detailed analysis of the information received, in addition to conducting other research and analysis including scrutiny of valuable planning data published by DHLGH, the Central Statistics Office, NOAC and An Bord Pleanála.

The OPR's review team wish to express thanks to Tipperary County Council for facilitating open engagement throughout the review process and to acknowledge the input of the Council's planning department staff, including the generous access and insights provided.

Area profile

Based on Census 2016, County Tipperary has a population of just over 160,000, representing approximately 3.5% of the national population. The county covers a geographical area of over 4,000 km². Tipperary is the sixth largest of the 32 counties by area and the eleventh largest by population.

Tipperary is part of the Southern Regional Assembly (SRA) area but, given the geography of the county, the northern portion sits in the mid-west part of the SRA while the southern half of the county is in the south-eastern part of the SRA area.

The county is traversed by the M7 and M8 motorway networks (directly linking Dublin to Limerick and Cork respectively) and train lines to Dublin, Cork, Limerick and Waterford.

Tipperary is largely a rural county, with approximately 63% of the population living in rural areas. A notable feature of the wider rural parts of Tipperary is the large number (>100) of smaller towns and villages and rural clusters, the population of many of which has been notably declining in recent years. With some of the most productive farmlands in the country, agriculture is an important characteristic of County Tipperary.

The county also hosts a large amount of built heritage and of particular note are the Rock of Cashel, Cahir Castle, Holycross Abbey. Natural heritage is also important with the Galtee, Knockmealdown and Silvermine mountain ranges included in the county, and the River Suir and Lough Derg also being key features. Tourism plays a significant role in County Tipperary, supporting over 3,000 jobs.



Rock of Cashel

Organisational Context

Tipperary County Council was established in 2014, following the amalgamation of two county Councils (North Tipperary and South Tipperary County Councils), one borough Council (Clonmel Borough Council) and six town Councils (Nenagh, Templemore, Thurles, Cashel, Tipperary and Carrick-on-Suir Town Councils). It is noted that Tipperary County Council was awarded the European Public Sector Award (EPSA) 2015 Best Practice for the project to merge North and South Tipperary into a unified single local authority.

The Council executive is led by a chief executive, supported by a head of finance and seven directors of services with responsibility for:

1. Local Authorities Waters Programme (LAWPRO) National;
2. Economic and Community Development;
3. Housing Services;
4. Planning and Water Services;
5. Emergency Services, Health & Safety, Library/Cultural;
6. Human Resources, Corporate Services, Environment & Climate Action; and
7. Roads, Transportation and Infrastructure.

The authority is overseen by a 40-member elected Council, whose role is to provide civic leadership, to formulate policy, to perform certain functions known as ‘reserved functions’, to represent the interests of their constituents and to ensure that the views of the people of Tipperary are reflected in the decisions taken by the Council and in the way that services are delivered. The reserved functions include some of the most important planning functions such the making or variation of the county development plan, the making of local area plans, the approval of material contraventions, the making of development contribution schemes, etc.

There are six strategic policy committees (SPCs) which give the relevant sectoral interests an opportunity to assist the Council in the policy-making process. One of these is the Planning and Emergency Services SPC.

Reflecting the previous two-authority arrangement, Tipperary County Council has two main offices with Nenagh serving the north and Clonmel the south of the county. Functions are generally divided across the two centres, with designated ‘headquarters’ of the various services located in each. Each municipal district has Council office presence, delivering a range of frontline services to the public. The Council’s customers include its 160,000 residents, comprising almost 70,000 households, and approximately 14,000 businesses with over 63,000 employees.

Tipperary County Council’s Corporate Plan 2020-2024 identifies four overarching themes under which the Council delivers services to ensure that the strategic vision is delivered on within the plan period. These themes are as follows:

1. **Our Economy:** make Tipperary resilient by supporting innovation, enterprise growth and sustainable employment. Support a diverse and skilled workforce to enhance and develop our County.
2. **Our Environment:** further develop Tipperary’s reputation as a green and sustainable environment achieved through future proofing our communities to be energy efficient and climate change ready. Support our citizens in protecting our environment for current and future generations.
3. **Our Community:** continue to develop Tipperary as an attractive place to live with sustainable and sensitive development. Build strong and confident communities with a sense of pride that are inclusive, equal and informed. Support the Arts and Lifelong learning, to create a rich and diverse heritage and culture.
4. **Our People:** build on the capacity and capability of our dedicated workforce by providing training and development opportunities that seek to fulfil both organisational and personal goals. Recruit people with the appropriate knowledge and skills that will add further value to the delivery of high quality public services.

Overview of Key Findings

As is the case for any local authority, the planning department of Tipperary County Council oversees the implementation of a broad range of national, regional and local policies and programmes, operating in an environment that is technical and complex, with decisions and policies the subject of political, media and public scrutiny.

Planning is a demanding brief in any local authority and in Tipperary's case, the planning function is delivered by just over 38 staff (full-time equivalents), excluding current vacancies.

In an overall sense, this review has found that Tipperary County Council operates generally effective systems and procedures in delivering its statutory planning functions. Indeed, in some areas of performance, the Council's proactivity and innovation are considered highly effective practice.

While acknowledging the general quality of the Council's performance in delivering planning functions, the recommendations made in this report are set in the context of ensuring that delivery remains effective in the face of ongoing and likely future additional demands, and that where improvement is needed, the capacity and effectiveness of the Council's planning functions are enhanced.

Plan-led Development

Following the 2014 merger of North and South Tipperary County Councils, the Council is currently preparing the first county development plan for the entire county. The OPR's review has found that the Council has robust procedures and expertise in place to guide it through this process effectively ensuring compliance with statutory requirements and working to support the engagement of the wider public.

The planning department also has robust procedures in place to ensure a focus is placed on consistency with evolving national planning policy, with guidance and legislative updates effectively communicated internally and incorporated into day-to-day practice. This review also noted the extensive efforts in recent years that have gone into preparing a single, county-wide Record of Protected Structures. This is a significant task, with 3,000 structures to be included in the overall project.

Recognising the considerable impending workload of the planning department with regard to forward planning, the key overall recommendation of this review is that the Council urgently conducts an evaluation of the ongoing and emerging demands on the planning department. The purpose of this is to ensure that there is appropriate resource capacity across the department to continue to deliver functions effectively and to enhance delivery where possible.

While this recommendation is primarily set in the context of the resources available to the forward planning team, the evaluation should include the ongoing delivery requirements for each operational process, with, in particular, resource issues also to be considered in relation to the enforcement team and the architectural heritage function.

Managing for Sustainable Development

For any local authority, managing for sustainable development is primarily about ensuring that all aspects of decision-making advance the overall economic, social and environmental qualities of the area of the relevant Council, in a way that is both internally integrated and in line with wider national and international obligations.

In this respect, this review found the Council to have robust systems and procedures in place to facilitate consistent decision-making across the various development management functions. This is further confirmed through the Council's planning application output statistics which are generally in line with the national trends.

Robust procedures with regard to the implementation of European Directives were also noted, contributing to the Council's ability to manage development in a sustainable manner. Furthermore, the Council's enforcement function is being delivered in line with national trends with good procedures in place to respond to reported unauthorised development. However, greater proactivity in the early identification of unauthorised development and the appropriate resourcing of the enforcement function should also be a consideration of the resources evaluation exercise mentioned above.

While the statutory development control function provides for the management of development, other statutory and policy tools empower authorities to deliver required sustainable development.

In this regard, our review has found Tipperary County Council to be effective in proactively progressing its own development opportunities in relation to the delivery of part 8 projects and accessing funding streams, such as the Urban Regeneration Development Fund, etc. The Council's implementation of the Vacant Site Levy initiative is also a positive indication of the priority the Council assigns to land activation.

Delivering Quality Planning Services

The measure of quality in delivering planning services is cross-cutting and relates to each of the functions the Council undertakes.

Delivering quality services is not just about the customer experience, in terms of satisfaction and good communication, but also the standards that are achieved by the planning department in terms of efficiency in handling applications, transparency of processes, consistency of decisions, etc.

The review found Tipperary County Council to be effective in the delivery of planning services to the public with examples of innovation and good practice.

The development management function, the planning department's primary public service, is being delivered on an effective basis with the timeliness of decision-making generally consistent with national averages and a low rate of appeal against the Council's decisions. The Council also has well-developed systems in place to operate its planning enforcement function with outputs that are generally in line with national trends.

While in the region of 1,000 valid planning applications are received by the Council annually, some 500 pre-planning consultations are facilitated each year, demonstrating a commitment to engaging with the public. This customer focus is also evident in the department's success in quickly publishing planning decisions and making received planning applications available online.

The Council engages in around 500+ pre-planning consultations annually, where the applicant can request a consultation either by completing an online form or by submitting a form by post. Due to Covid-19 restrictions, consultations have been provided by phone / video conference in recent times.

The review highlights, however, the importance of the Council, working with prospective applicants for planning permission, and their agents, in order to address the Council's high invalidation rate of between of 25-30%.

In practical terms, such high invalidation rates create a notable degree of repeat handling. In the first instance, the application returned to applicants before adjudication because it has failed to meet minimum statutory requirements and then subsequently handling the follow-on application, once the minimum statutory requirements are met.

Applicants and agents should be clear on what these requirements are, and while Tipperary County Council is proactively engaging with applicants and agents, it is taking time to translate this effort into bringing invalidation rates down to national averages.

Generally, the Council has a focus on customer needs and facilitating public engagement, including through the elected members. The communications strategy around the development plan review process provides good evidence in this regard with a range of methods employed to engage the public and stakeholders in the process. This includes a dedicated website, targeted communications, briefing sessions for elected members and using social media to support engagement.

The planning department's webpage provides a good resource for the public in relation to planning generally with comprehensive information regarding the planning process and online facilities available to access certain services. The review also acknowledges the Council's commitment to service improvement and innovation through its participation in the pilot phase of the national e-Planning project.

Finally, the Council shows evidence of a strong corporate approach that supports collaboration between teams and departments to enhance service delivery; examples of this are the Council's procedures for delivering part 8 developments and the taking-in-charge of housing estates.

In particular, the review has highlighted the proactivity shown by the Council in tackling a serious backlog of housing developments not taken into the responsibility of the Council for maintenance of public infrastructure such as roads and footpaths and public lighting.

Conclusion

Tipperary County Council's planning department operates in a complex and demanding environment. Despite the challenges and pressures under which it operates, the planning department is generally delivering all of its statutory planning functions effectively which is demonstrated throughout this report.

The 2014 merger is an important consideration for analysing the current operation of the planning department. In this regard, the success of the merger project has been widely endorsed and it is clear the planning department has risen to the challenges of coordinating operational processes that were previously run by distinct teams and from separate office locations. The department's management coordination arrangements ensure ongoing interaction and support between staff in the various teams and separate office locations.

The successful experience of the merger project may have been a factor in engendering the attitude of openness to considering and implementing new ways of working. The planning team in Tipperary has already learned how to adapt and to successfully maintain and enhance services during a time of change. With the discernible positive working attitude, it is clear that the planning department could further build upon its existing capabilities in the coming years to deliver services, and implement policy, even more effectively.

The department benefits from clear leadership, a structured corporate approach and the commitment and talent of individual staff. These factors have allowed the department to develop and implement good systems and procedures to guide its operational processes and to monitor and evaluate outputs. The planning department has many considerable strengths and it can reinforce, and enhance, that strong competency base by implementing the various recommendations proposed in this report.



Tipperary County Development Plan 2022-2028

Organisation of the Planning Department

Overview

At the strategic management level, the Director of Services has responsibility for Planning and Water Services. The planning department is led at senior planner level and is headquartered in the Nenagh office with a secondary office in Clonmel.

For 2021, the planning department's budget allocation is €3.5 million, representing 2% of the Council's overall proposed expenditure of €185 million. Some of the key estimated expenditure under the core planning functions includes the following:

- Development management: €1.2 million
- Forward planning: €770,000
- Enforcement: €724,000
- Unfinished housing estates: €434,000
- Economic development and promotion: €60,000
- Heritage and conservation services: €199,000
- Healthy and safety/agency services: €65,000

Planning income is expected to be in the region of €921,000 in 2021 which therefore covers 26% of expenditure, noting that planning fees and charges are set centrally, not locally and were last reviewed in 2001.

NOAC, through its 'cost of planning' analysis (which includes the cost of delivering services such as forward planning, development management and enforcement) indicated that the cost of planning in Tipperary in 2019 was €3.7 million. This equates to €23.09 per capita in Tipperary, which is relatively low compared to the national average of €30.27 per capita. Despite this, there is still a significant divergence between planning costs and planning income in Tipperary.

Staffing structures

At the time of the preparation of this report, total of 45 employees work in the planning department. Given the various flexible working patterns in place, this equates to just over 38 full-time equivalents (FTEs). A breakdown of the general deployment of these FTEs is set out in the tables 1 and 2.

Grade	FTE
Planners	13.9
Technical	4
Administrative	20.7
Total	38.6

Table 1: FTE staff in planning department

Team	FTE
Forward planning	8.3
Development management	19.05
Enforcement/taking-in-charge	10.8
Miscellaneous/health and safety	0.45
Total	38.6

Table 2: FTE staff across planning teams

The overall operation of the department is coordinated through a monthly planning management team meeting, led by the Director of Services, with participation at senior planner, senior executive planner / engineer, administrative officer, senior staff officer and staff officer levels. As evidenced from the agendas and meeting notes considered under this review, this monthly engagement provides a forum for decision-making, the monitoring and evaluation of business process and the setting of operational priorities and addressing matters arising from the broader policy context.

The planning department is organised around three core functions: forward planning / planning policy, development management and enforcement. Each of these core functions is overseen at senior planner level, reporting to the Director of Services.

The forward planning / planning policy team is a unit of eight FTE staff, mostly based in the Nenagh offices, led by a senior executive planner. The forward planning team has access to some additional administrative support from the wider department. In addition to tasks associated with the preparation and implementation of statutory plans, this unit is also responsible for the preparation of development contribution schemes and managing the record of projected structures, including administering conservation grant schemes.

With regard to the development management and enforcement functions, technical assessment and support is provided through approximately nine FTE planners and four FTE technicians, supported by 18 administrative staff. A senior executive planner in each of the Nenagh and Clonmel offices manages the day-to-day delivery of these operations.

The development management function also incorporates oversight of the part 8 process as well as applications for events. The enforcement function includes operations around the collection of development contributions, compliance with bond conditions, applications for taking estates in charge and vacant sites.

Additional priority operations, including taking-in-charge of housing estates and implementation of programmes funded under Project Ireland 2040, are delivered with input from planning department staff through teams made up of operatives from across the functional areas of the local authority. The taking-in-charge of housing estates operation is managed by the planning department at senior executive engineer level.

The planning department also has significant responsibility in delivering strategic non-statutory work, outside of the usual statutory planning functions. This includes the organisation and implementation of key Government policy initiatives such as the Climate Action Plan 2019, Our Rural Future: Rural Development Policy 2021-2025 and Project Ireland 2040 as mentioned above.

Implementation of these policies involves the leading of / participating in multiple cross-departmental groups, as well as external committees by staff in the planning department. Projects include the preparation of strategic masterplans, climate action awareness initiatives, age-friendly initiatives, tourism plans, and more. Whilst this work is non-statutory in nature, it is crucial to the implementation of important Government policy at the local level and is a core function of the planning department which fosters innovation and development across the teams.

While a management team meeting for the department is held on a monthly basis, meetings to coordinate the activities associated with the three key functions are more regular e.g. development plan meetings may be held weekly at certain points while meetings with regard to the Record of Protected Structures are scheduled every two weeks during the life of the current project.



Tipperary County Council Civic Offices, Nenagh

Corporate and business planning

The key priorities for the planning department are established in Tipperary County Council's annual Service Delivery Plan. This plan sets out, at a high level, the primary services and initiatives to be progressed for the coming year through the three core functions but also other programmes of work such as taking-in-charge of estates, Urban and Rural Regeneration & Development Fund projects and administering other funding schemes, etc.

A broader set of objectives is set out in the annual plan produced by the planning management team. This plan translates the four high-level aims of the Council's five-year Corporate Plan into annual deliverables to be implemented across the broad range of the planning department's operations.

The objectives identified in the planning management team's plan are broken down further into specific actions in annual team plans for each of the three core functions. Timelines for the delivery of objectives are identified in the team plans and responsibilities are clearly assigned to the appropriate staff members.

The performance management and development system used by the Council sees the various tasks associated with actions identified in the annual team plans assigned to individual staff members in personal development plans. These personal development plans also provide for the identification of training needs and scheduled review and feedback exercises to encourage continuous improvement and the monitoring of deliverables.

The remainder of this report will provide a detailed review of Tipperary County Council's delivery of planning services under 11 key operational processes.

Forward Planning

Context

In the wider context, Tipperary County Council forms part of the Southern Regional Assembly, which in 2020 prepared and adopted a Regional Spatial and Economic Strategy (RSES). Finalisation of this RSES triggered the preparation of a new development plan for County Tipperary, which is ongoing and scheduled for adoption towards the end of 2022. The RSES, together with the National Planning Framework and a range of guidelines and policy directives published by the Minister, and the neighbouring development plans in Waterford, Cork, Limerick, Clare, Galway, Offaly, Laois and Kilkenny set the context for forward planning in Tipperary.

As already noted, Tipperary County Council was formed in 2014 on foot of the merger of North and South Tipperary County Councils, both of which prepared separate development plans that will remain in force until the new county development plan preparation process is complete in 2022.

In addition, the development plans prepared by the seven former town Councils (Clonmel, Nenagh, Thurles, Carrick-on-Suir, Tipperary, Cashel and Templemore) will also remain in force until replaced by new local area plans subsequent to completion of the county development plan review. The Council's website lists a further Roscrea Local Area Plan 2012. Former local area plans for Holycross, Fethard, Marlfield and Newport were revoked in 2017 and incorporated, by way of variations, into the two relevant county development plans.

A notable feature of many of the towns in Tipperary is that they are located close to or adjacent to the functional areas of adjoining local authorities, for example Nenagh being close to Limerick while Clonmel and Carrick-on-Suir have extensive environs in the neighbouring county of Waterford.

Forward Planning Team

As noted above, forward planning / planning policy is a dedicated team within the department, mostly based in the Nenagh offices. The team is led by a senior executive planner and overseen by a senior planner with support from staff at senior executive engineer, executive planner, assistant planner, administrative officer, senior staff officer, staff officer, assistant staff officer and clerical officer grades. Accounting for the apportionment of staff that are shared across multiple teams in the planning department, and flexible working arrangements, the FTE equivalent for this team is eight staff.

The forward planning team has access to some additional administrative and technician support from the wider planning department and draws on specialist advice on environmental and flood risk assessment as well as engineering, housing, environmental input from across the Council's other functional areas. Some of the key responsibilities and projects under the team include:

- **Preparation and review and variation / amendment of statutory plans.** Work currently on-hand includes the preparation of the county development plan, following which work will commence on the preparation of a new tier of local area plans replacing the former town council development plans and older local area plans. This work includes ensuring that flood risk, environmental as appropriate assessments are conducted as statutorily required.

- **Monitoring of the ongoing implementation of existing plans** (including to inform the two-year chief executive's progress report on delivery of development plan objectives, as per section 15 of the Act), the preparation of strategies to support plan implementation (e.g. with regard to renewable energy, retail, etc.) and the preparation of masterplans and strategic project development as required.
- **Updating the Council's development contribution schemes** under section 48 of the Act.
- **Maintaining the county's Record of Protected Structures** and the administration of various conservation grant schemes.

Formal forward planning / planning policy team meetings are scheduled on a monthly basis. An official record taken of the items considered, actions agreed and the identification of owners of associated tasks. This regular and formalised structure provides a basis for the monitoring of key deliverables, such as progress with regard to development plan preparation, as well a platform to update the wider team in relation to strategic or policy developments. Additional meetings within the team may happen on a more regular but less formal basis to advance work on specific operational projects.

The forward planning team has a procedures manual in place to structure its work in relation to the preparation of development plans, variations and local area plans. This manual clearly sets out the team's system for conducting the work associated with plan preparation as clearly grounded in the legislation.

Compliance with mandatory objectives specified under the Act

Section 10 of the Act sets out a range of mandatory objectives that every development plan must include in their written statements and maps as appropriate. Given that a local authority's approach to incorporating the mandatory objectives is central in undertaking a qualitative assessment of a development plan, exploring the work around research, engagement and drafting to ensure compliance with this area of the Act is an important insight into qualitative aspects of plan-making.

While this area of work is highlighted in Tipperary County Council's procedural manuals, it would be beneficial for the Council to include additional details in relation to the internal systems and procedures applied in implementing the section 10 mandatory objectives, for example:

- Effective engagement with infrastructure providers in the context of zoning objectives so that an infrastructure delivery schedule around future development / regeneration areas is clear and that lands are only zoned for development where there is a reasonable degree of certainty around delivery of critical enabling infrastructure, such as water services; and,
- Provision of housing and accommodation for the travelling community derived from an evidential approach to the Traveller Accommodation Plan and needs assessments

Preparation of Local Area Plans (including with adjoining local authorities)

The Council's procedures manual clearly demonstrates that staff have an effective understanding of the legislative and regulatory framework for preparing local area plans (LAPs). These are set out under Part II Chapter II of the Act and in a broad sense require authorities to:

- Prepare LAPs for CSO census towns with a population of 5,000 persons or more; and

- Either (a) prepare LAPs for towns with a population of 1,500 persons or more at the last census or (b) include objectives for the said town in the relevant development plan.

In the case of Tipperary, the above requirements equate to the preparation of five local area plans for towns with a population of over 5,000 population, as well as an additional seven locations that will need to be addressed under either the development plan or separate local area plans (Ballina, Cahir, Cashel, Fethard, Newport, Templemore, Tipperary). This amounts to 12 settlements in total that require a more detailed approach to local area planning.

Also of note is the fact that three of the above locations¹ lie adjacent to extensive environs or nearby towns with their own local area plans in immediately adjacent counties where there would be scope for a joint / coordinated approach to plan preparation with those local authorities. The Council would benefit from including guidance on joint-authority plan-making in its procedures manual given the relevance of this process to the Council's forward planning function.

Notwithstanding the above, the current Clonmel Town Development Plan is notable for having factored in the relevant development objectives, for example in the preparation of its core strategy, which is a good practice approach.

To plan for this significant workload over the coming years, the Council has put a general timeline in place for the preparation of local area plans. This workload spans across a significant range of diverse and, in some cases, quite significantly scaled towns in an Irish context that present both significant development challenges and opportunities, with significant inter-authority dimensions.

By their nature, local area plans for designated urban centres are very detailed, ideally adopting a more three-dimensional approach which articulates a clear vision for future development that the public can understand and relate to. This requires an extensive level of both background research and analysis, as well as community, political and stakeholder engagement in developing and articulating a coherent strategy.

Furthermore, a significant elapse of time has occurred since some of the settlements were the subject of local plan-making, and there has been an increasing pace of wider regulatory and policy change impacting on local plan-making in the interim that will have a bearing on such plan-making. This makes it clear that there is a very considerable workload facing the forward planning team in the coming years.

Specialist inputs will be required in areas such as implementing the Government's Town Centre First policy, active travel, brownfield development and urban regeneration targets under the National Planning Framework, flood risk management, active travel and biodiversity policies which are either completely new or substantively revised since previous statutory plans were put in place.

¹Ballina, adjacent to Killaloe in County Clare, and both Clonmel and Carrick-on-Suir (next to County Waterford). Riverstown adjacent to Birr County Offaly is another potential location.

The procedures manual does not refer in detail as to how the management of such work across such a range of locations and in concurrent timeframes will be managed. However, the Council has set out the general timelines for preparation of local area plans over the next six years. Finally, it has to be recalled that this team (of eight FTE staff) has a wider responsibility to finalise the county development plan, monitor its implementation and progress a wide range of other functions as detailed above.

Monitoring of Plan and National Policy Implementation

As mentioned above, the Council's forward planning procedures manual points to both the statutory monitoring reports required of local authorities and the chief executive to prepare, including strategic environmental assessment aspects.

The manual also points to occasional or thematic monitoring exercises undertaken in areas such as the vitality of prime retail areas, the location of wind turbines (a significant number of which have been developed in the county in recent years) and other unspecified topics.

It would be important that the manual also includes more detailed monitoring, mapping and recording of high-level development trends is undertaken by the Council. For example, since the introduction of the requirement for core strategy under legislation in 2010, geographical / spatial monitoring of development trends, particularly housing construction, is essential.

This is so the Council can identify whether it is on / off target in the management of development patterns towards securing objectives of the development plan. For example, whether regenerating underutilised parts of urban areas or sustaining rural towns and villages is being achieved. It is crucial for local authorities to measure their performance in this respect to ensure adequate monitoring of the implementation of the plan.

Measures Supporting Public Participation and Stakeholder Engagement

In terms of public participation and engagement in the plan-making process, the Council employs a range of methods for public engagement to ensure stakeholders and communities are fully informed of the process, including but not limited to:

- briefing sessions for elected members;
- establishment of a dedicated website and consultation portal for the county development plan preparation;
- targeted communications to 33 statutory consultees, 70 non-statutory consultees and over 180 schools;
- facilitation of public meetings at a series of venues across the county;
- dedicated social media platform via twitter account;
- statutory public (newspaper) notices and local radio station interviews; and,
- webinars and group meetings with the local authority Strategic Policy Committee, Public Participation Network, Local Community Development Committee and the Comhairle na nÓg.

Moreover, the appendices to the forward planning procedures manual highlight various stages for stakeholder engagement as part of the process for preparing the development plan and local area plans, and for varying / amending the plans.

The manual demonstrates the Council's understanding that stakeholder engagement is a key step in the plan-making process, covering both the prescribed authorities and environmental bodies as set out in the planning regulations. The manual notes that the project manager for the relevant plan maintains a comprehensive list of stakeholders for the relevant plan review process and points to key statutory bodies such as Irish Water, infrastructure providers, etc.

It is clear from the material provided that the Council has a detailed procedures manual in place, derived from the broad legislative framework around plan-making, and a clear awareness of the various procedural steps in public engagement. Of additional benefit to this review would have been a sense of the level and depth of engagement arising out of stakeholder consultations, trends in public response levels, whether any particular innovations or evolution of policies arose as a result of such engagement, or a sense of the development of relationships with key stakeholders.

Forward Planning Capacity and Resource Management

As noted, the resource base available to Tipperary County Council for statutory forward planning functions includes eight FTE staff. As highlighted above, with regard to the required local area plans, a significant forward planning workload has accumulated. Furthermore, the forward planning team is also required to deliver other key business objectives for the planning department. From a resourcing perspective, the existing will be under considerable pressure progressing the approaching workload to the level now demanded by national regulatory and policy frameworks.

In particular, aside from technical resources, the administrative processes around plan-making are highly procedural and demanding of resources and often in an out-of-hours sense in relation to public engagement. Bolstering the administrative capacity of the Council's forward planning function would expand its reach and potentially free-up technical staff from duties that could be delivered more generally.

Forward planning also takes place in a highly dynamic and evolving policy context that staff need to have the capacity to devote a constant proportion of their working time to learning and development activities to keep up with such changes and ensure ongoing output is of high quality, robust and alert to both prevailing and approaching policy matters. Again, it is difficult to see how a strong learning and development programme would be possible to progress against the resource backdrop above.

Performance Rating and Recommendations

From the material presented and wider background analysis conducted, noting that there are systems in place that are adequately robust to deliver on the currently required tasks, the implementation of the Tipperary County Council's forward planning function is considered to be effective.

A highly effective rating would be achievable if there was more evidence available concerning the breadth and depth of the Council's resources being a match for the span of future work it faces. Indeed, to continue operating this function effectively, without risking the introduction of procedural weakness, it would be important that the Council considers the prioritisation of the forward planning function within the context of the wider operations of the planning department. Accordingly, the following recommendations are made in relation to this aspect of this review.

Recommendation 1 – Overall Forward Planning Capacity: the Council should urgently commence an internal evaluation of ongoing and emerging work demands, resource capacity and skills available, both technical and administrative, across the planning department. The allocation of an appropriate level of working time to learning and development for all planning department staff should not be neglected. This evaluation should look at the wider operations, including projected workloads for the development control and enforcement teams as well as other priority deliverables over the coming years, with a view to ensuring that there is an appropriate balance of resources to capacity across the department.

The evaluation should be conducted with a view to presenting the findings to senior management of the Council within the next six months. Where potential capacity issues / resource deficits are identified, clear proposals regarding the requirement for additional resources, or the reassignment of responsibilities, should be set out. Should this process conclude that additional staffing resources are required, the Council should endeavour to have the appropriate additional staff in place before the full impact of the local area plan-making workload materialises.

Recommendation 2 - Monitoring: the Council should put in place a geographical information systems (GIS) based monitoring system to track commencements of each housing development approved within the county against the objectives of its core strategy and the National Planning Framework in relation to town centre first development and brownfield regeneration targets.

Recommendation 3 - Collaboration: the Council should identify the scope for appropriate joint working with adjoining local authorities in the preparation of local area plans for areas which lie within the combined functional area of the authorities concerned as provided for under section 18(2) of the Act.

Recommendation No.	Grading	Responsibility
1: Capacity	High	Management Team
2: Monitoring	Medium	Dir Services
3: Collaboration	Low	Dir Services

Guidelines and Directives

Legislative context

Local authorities are required to have regard to guidelines issued by the Minister under section 28 of the Act in the performance of their planning functions, including when preparing the development plan. Local authorities are also required to comply with any policy directives issued by the Minister under section 29 of the Act in the performance of their planning functions. To date, approximately 30 sets of section 28 guidelines and one section 29 directive have been issued by the Minister under the Act².

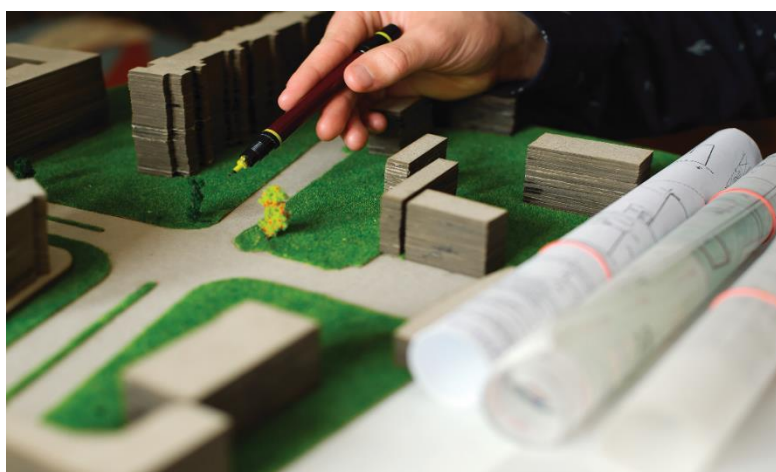
As such, it is important that local authorities give appropriate consideration to new / updated guidelines, circulars, etc. in order to ensure they are meeting legislative requirements and are appropriately implementing national planning policy. This can be challenging given the ever evolving scope of policy and guidance produced at the national and regional levels.

General systems and procedures

Tipperary County Council provided information on the administrative process followed when new guidelines are issued, whereby a copy of the guidelines are circulated to planning staff and stored in a shared folder for ease of access.

The management team reviews the guidelines and discusses them at the monthly planning management team meeting. This level of management interaction in relation to emerging policy through guidelines is welcomed by the OPR as it ensures that all senior management are alerted to the new guidelines.

The Council's senior executive planners review and update procedures as required. The senior executive planners also ensure that forward planners, district planners and enforcement officers have taken the relevant guidelines into consideration in the preparation of reports / documents. Elected members, the Strategic Policy Committee for planning and agents are updated if necessary and workshops are provided on the change(s) in policy if they are substantial and wide ranging.



² These are available on the OPR website at: <https://www.opr.ie/library/>

Examples provided

Several examples were provided in respect of this operational process:

1. Circular letter PL 07/2020 in relation to the amending of section 38 of the Act, which now requires local authorities to publish valid planning applications on their website within five working days of receipt. The Council ensured the requirements of the circular were implemented in their procedures by:
 - raising its contents at a management team meeting;
 - circulating a memo to appropriate staff;
 - adapting workflows;
 - updating procedures and circulating to relevant staff; and,
 - daily monitoring to prevent slippage in timelines.
2. Changes to environmental impact assessment processes due to new regulations introduced in 2018. The Council ensured the requirements of the new regulations were implemented in their procedures by:
 - circulating the regulations to appropriate staff;
 - raising at a management team meeting;
 - attendance at an information seminar held by the Department;
 - facilitating an internal staff meeting to disseminate information;
 - reviewing procedures and updating relevant template documents; and,
 - facilitating a staff workshop to ensure an understanding of the complexity of consent involving EIAR and ensuring all applications are screened.
3. Circular letter PL 11/2020 on 'Telecommunications Services – Planning Exemptions and Section 254 Licences': the existing protocol was reviewed and it was determined that the protocol was consistent with the requirements of the circular, therefore no further action was required.

Performance Rating and Recommendations

From the material presented and wider background analysis conducted, the Council's delivery of this operational process is considered to be **highly effective** in that statutory functions are in the main delivered with ample evidence of:

- a) appropriate consideration of new guidance, circulars, directives and legislation/regulations as they issue;
- b) communication with staff at all levels to ensure dissemination of information; and,
- c) active updating of procedures, templates, etc., to account for evolving guidance, policy and legislation.

The OPR is satisfied that the Council has robust systems and procedures in place to ensure that statutory and policy updates are incorporated into day-to-day practice and therefore has no recommendations to make in this regard.

Control of Development

Context

The control of development, or development management function examines and decides on development proposals in the local authority area from the pre-planning application stage to commencement, with an overall objective of both enabling the right form of development in the right location and at the right time and achieving proper planning and sustainable development. The process has become significantly more sophisticated in recent years, particularly in relation to implementation of European directives.

Control of development responsibilities include:

- Pre-planning consultations;
- Processing of planning applications;
- Appropriate assessment and environmental impact assessment;
- Assessment of local authority own proposals for development under part 8;
- Considering whether particular proposals are or are not exempted development under section 5 of the Act,
- Declarations in relation to certain works affecting protected structures under section 57 of the Act;
- Preparing development briefs;
- Strategic housing development;
- The licencing of events / control of funfairs; and
- Setting out the Council's observations in respect of any of its decisions appealed to An Bord Pleanála.

The volume of planning applications submitted to local authorities has increased on an annual basis since 2012. Just over 31,000 applications were submitted to local authorities nationally in 2020, compared to approximately 20,000 in 2012.

In 2020, Tipperary County Council received 1,081 valid planning applications, representing approximately 3.5% of the national total. The volume of applications received by the Council has been generally consistent in recent years, with 1,142 received in 2018 and 1,036 in 2019.

Development Management Team

In addition to direct development management duties, the development management team also delivers on other planning department tasks e.g. 'part 8' development applications for events, etc. While the overall development management team comprises a number of individuals, this equates to approximately 19 full time equivalents (FTE).

As noted already, while a number of administrative staff are fully dedicated to the development management function, there is a shared management and technical support structure in place between the development management and enforcement teams, with both operations being delivered from offices in Clonmel and Nenagh. In this regard the development management team comprises over 10 FTE administrative staff, almost 2 FTE technicians and approximately 7 FTE planners.

Allowing for the apportionment of planners across the development management and enforcement functions, during 2020 approximately 9 FTE planners were responsible for issuing decisions on 934 planning applications. Factoring in the 187 planning enforcement complaints that were investigated during the same timeframe it is estimated that these 9 FTE planners oversaw the processing of 1,121 planning cases, or a caseload of approximately 125 cases for each FTE planner during 2020³.

In making this rough estimation, it is acknowledged that the scale of work associated with each case will vary significantly depending on the complexity of the matters involved (e.g. habitats, environmental and heritage issues), the location of the development (proposals are contested to a greater degree in certain contexts), the volume of objections, and whether the decision is ultimately appealed to An Bord Pleanála.



General systems and procedures

Tipperary County Council's development management procedural manuals demonstrate that robust systems and procedures are in place to meet statutory requirements, for example:

- Validation: a well-defined set of systems and procedures are in place for both the administrative and technical aspects, including checklists, a step-by-step guide to the process and a template report.
- The section 5 manual⁴ provides a clearly defined system for the administrative procedure and also includes a report template for technical staff, including screening for appropriate assessment.
- The section 97 documentation⁵ includes guidance and a procedural manual. The template report provides for consistent and structured reporting and also acts as a guidance note for technical staff.

³ This does not include work in relation to section 5s, section 57s, section 97s, etc.

⁴ Declaration on development and exempted development.

⁵ Application for certificate that provision of social and affordable housing shall not apply to a grant of permission.

- The decision manual is informative in relation to compensation issues and includes detailed explanation of planning conditions and the criteria for applying conditions to planning permissions. The template planning report provides for a consistent approach across the development management team.
- The further information manual includes legislative references and also helpfully highlights key guidance from the section 28 'Development Management Guidelines for Planning Authorities'.
- The extension of duration of permission manual is a detailed document containing relevant legislative references and guidance to staff evaluating section 42 applications. The template report is structured on the legislative criteria that gives consideration to extending duration of permissions.
- The Strategic Infrastructure Development manual includes a report template for reporting on section 182A(1) applications to An Bord Pleanála. The template report allows for a standardised report structure while addressing the key issues.

Development Management Output

Planning data published by DHLGH⁶ provides detail on Tipperary County Council's development management outputs and allows comparison to national trends

Decisions made within eight weeks

Figure 1 illustrates that the percentage of decisions issued by Tipperary County Council within eight weeks is generally consistent with the national average over a six-year period. It should be noted that temporary provisions were in place during 2020, as a result of Covid-19, which explain the reduced rates in that year. The Council have indicated that an adjusted figure, accounting for the temporary provisions, would be 60.2%.

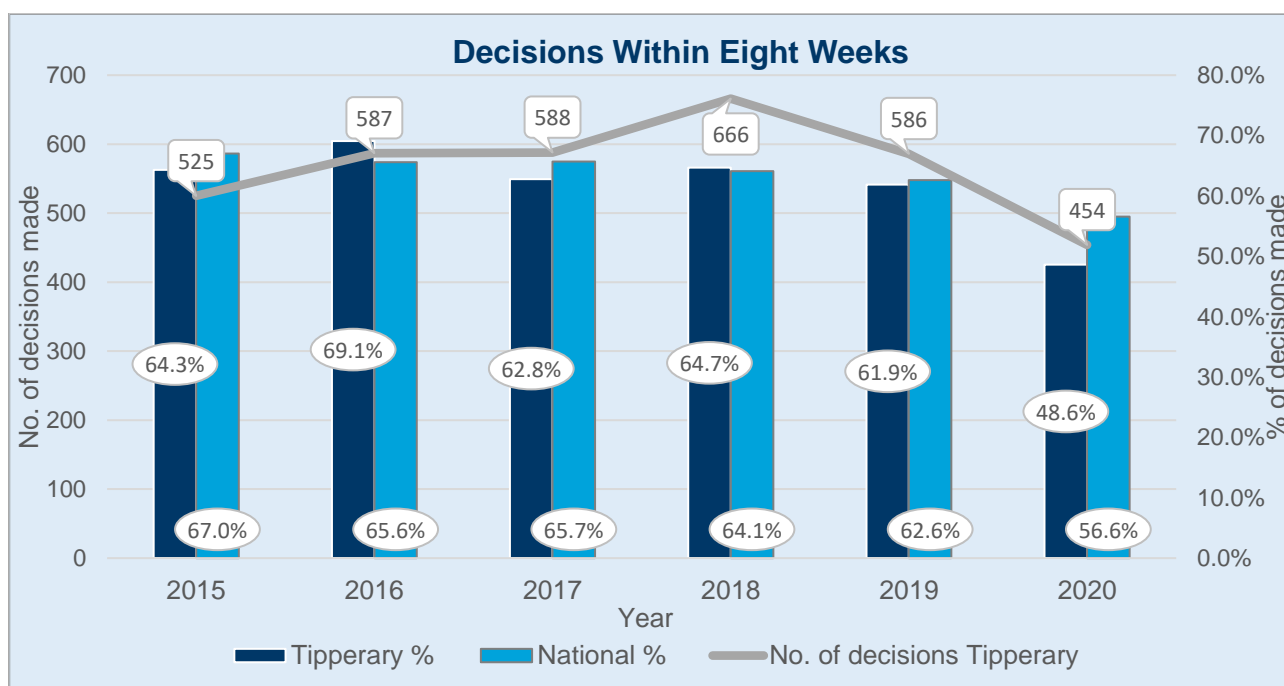


Figure 1: Decisions made within eight weeks

⁶ www.gov.ie/en/service/9e4ee-get-planning-statistics/

Decisions deferred

Figure 2 indicates that Tipperary County Council has a higher rate of deferrals relative to the national level over the six-year period. The deferral rate for Tipperary County Council is relatively high which can have implications for the timely delivery of projects.

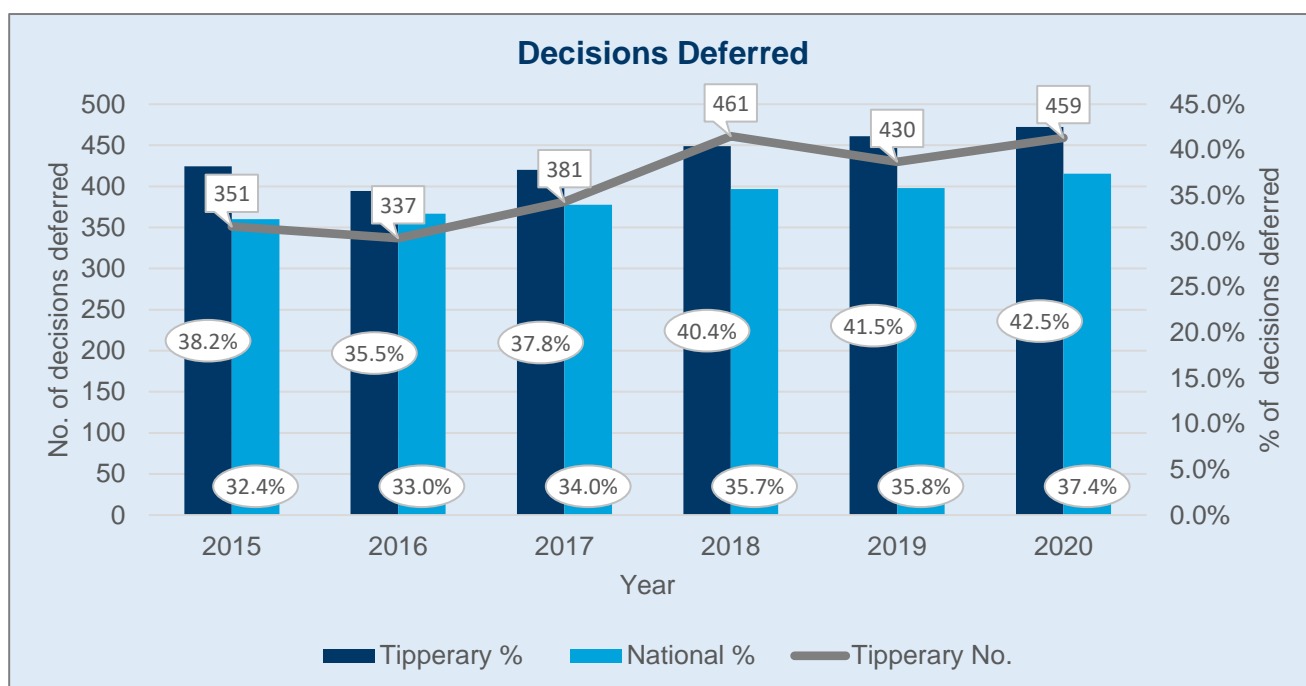


Figure 2: Decisions deferred

Decisions granted and refused

As figure 3 illustrates, a high percentage of planning applications result in a grant of permission from Tipperary County Council relative to the national average. In the six-year period, the average refusal rate nationally was 9.88%, in contrast to an average refusal rate of 3% in Tipperary.

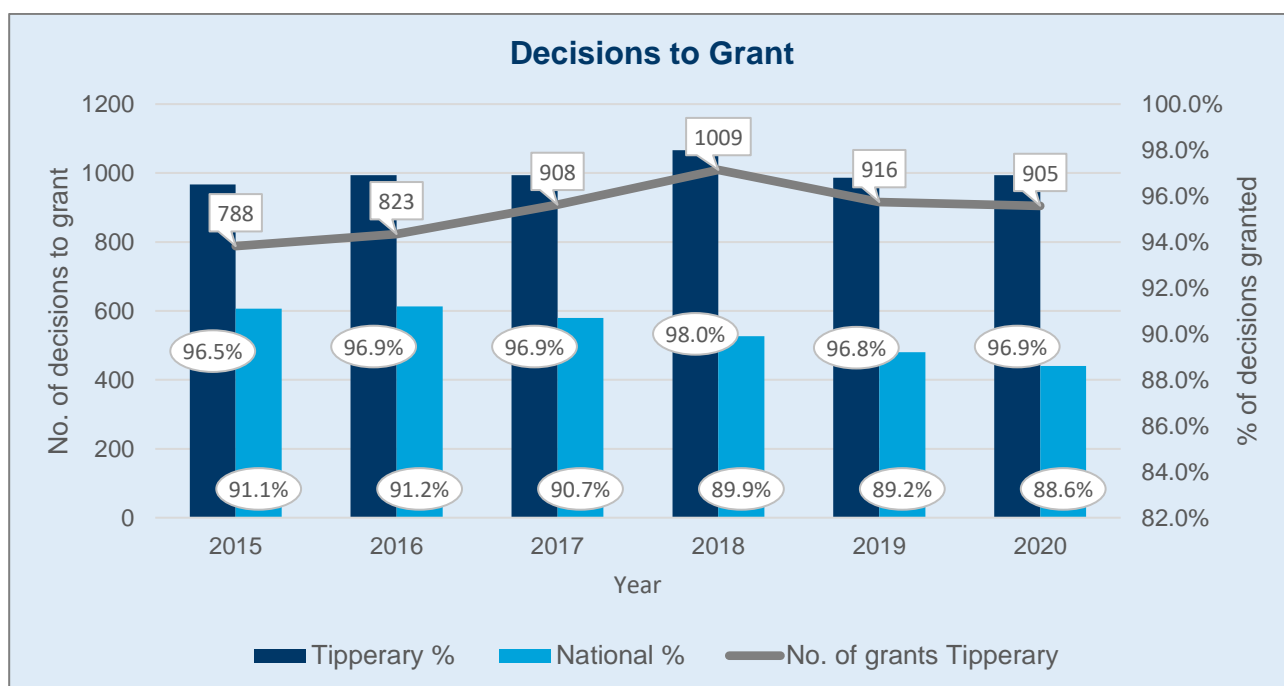


Figure 3: Decisions to grant planning permission

In national terms, the 2020 planning application grant rates across all 31 local authorities were high. Rural authorities tend to have a lower refusal rate than urban authorities which may take account of the higher complexity of applications in urban areas. Tipperary County Council's grant rate of 96.9% in 2020 was the highest nationally, compared with the lowest at 79.9% (Fingal County Council).

Appeals to An Bord Pleanála

As figure 4 demonstrates, there is a low rate of appeal against decisions made by Tipperary County Council. Over the past six years, between 3-5% of the Council's decisions have appealed to An Bord Pleanála⁷, in comparison to a national rate of 7%.

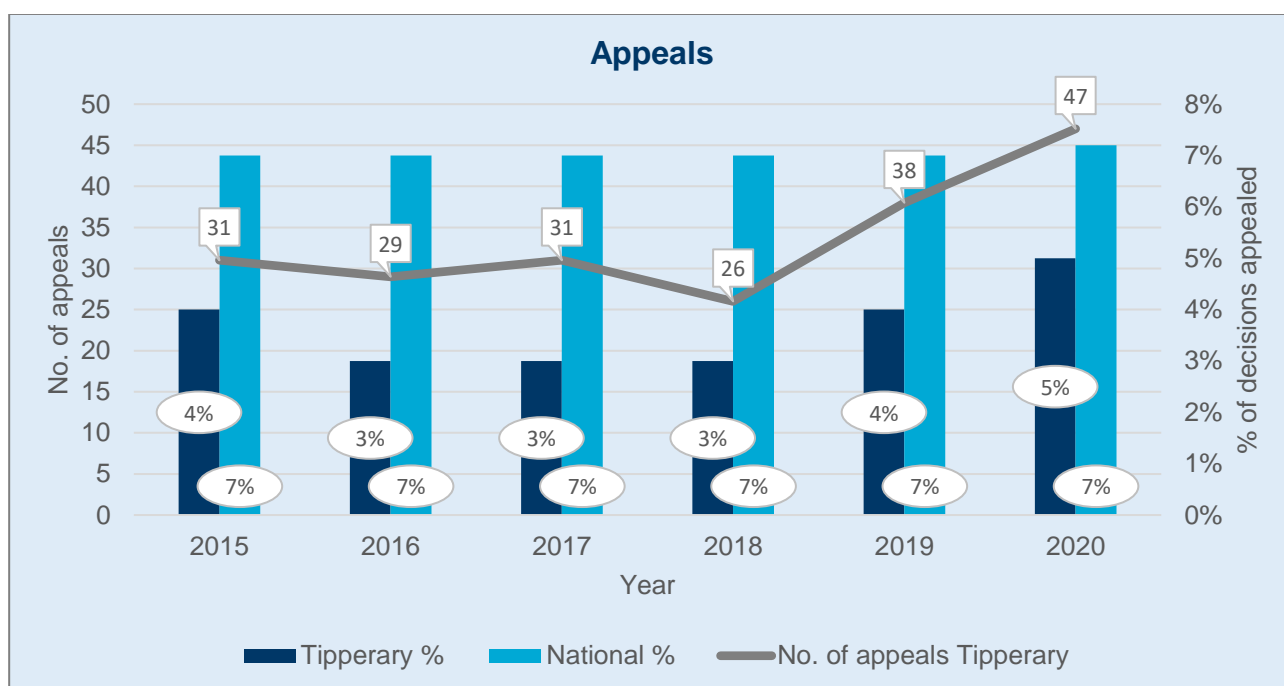


Figure 4: Decisions appealed to An Bord Pleanála⁸

Overview of development management outputs

Decisions issued by the Council on planning applications, in terms of timelines, are generally consistent with the national trends, particularly decisions within the eight-week timeframe of receiving applications. The Council's rate of permissions granted is higher than the national rate and its percentage of planning applications appealed to An Bord Pleanála is lower than the national rate.

From analysis of the information received, the OPR is satisfied that the Council has robust systems and procedures in place to facilitate consistent reporting and decision-making across the various development management functions. The manuals are informative and provide helpful training guides for staff, both administrative and technical. The output statistics coupled with evidence of robust systems and procedures demonstrate that the Council is performing well in this regard.

⁷ 2020 figures are provisional and subject to finalisation by An Bord Pleanála.

⁸ An Bord Pleanála data for appeals in 2020 are provisional.

Invalidation of planning applications

Prior to 2017 Tipperary County Council's invalidation rate⁹ was broadly in line with national trends, however over the past four years the Council has been invalidating planning application at a significantly higher rate than the national average.

For example, during 2020, with 1,081 valid planning applications and 491 invalid applications received, Tipperary County Council had an invalidation rate of 31% compared to the national average of 17%. Figure 5 illustrates the Council's invalidation rates compared to the national average over a six-year period.

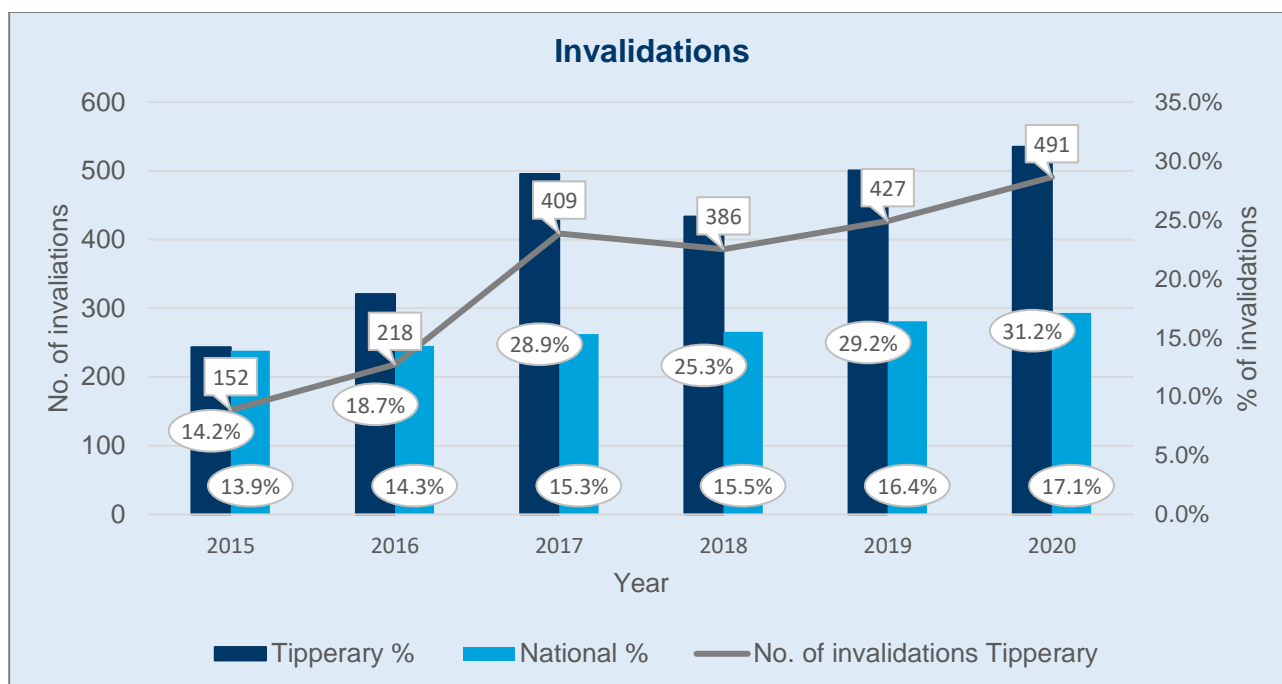


Figure 5: Planning application invalidation rates

Over the past four years, approximately 25-30% of all planning applications received by the Council have been invalidated, making Tipperary County Council the authority with the highest invalidation rate nationally.

Over the same period, the national average for invalidations has been ranging between 15% and 17%. In this regard, Tipperary's invalidation rate is significantly and consistently divergent from the national rate. In practical terms, this means that over 400 applications per year submitted to Tipperary County Council were deemed not to have met the regulatory standard to be processed by the Council, placing an additional burden on both customers and staff.

The marked divergence from the national rate from 2017 onwards coincides with the implementation of revised procedures by the Council around the same period. Following a process of internal assessment, the Council found that the overall quality of applications submitted required improvement and decided to adopt a more stringent approach to the validation process.

⁹ The number of planning applications submissions received that the Council invalidates due to errors, inaccuracies, etc.

Tipperary County Council is conscious of its high invalidation rate and is endeavouring to work with customers to make them aware of the required standards, with a view to bringing the Council's invalidation rate closer to the national average over time. The Council is taking positive steps in this regard, including facilitation of information workshops and one-to-one engagement with agents whose applications have regularly failed to meet the regulatory standard.

With a view to delivering a continuously improving service to customers, while retaining the highest standards of administration, it should be a target for the Council over the next three years to work towards bringing its invalidation rate more in line with the national average.

It will be important that the Council continues to implement initiatives designed to encourage quality applications. In addition to ongoing initiatives, an action plan could include analysing patterns in relation to invalidations to determine if targeted measures could be applied in respect of certain sources or repeat issues and assisting agents with relatively higher rates of invalidations with a view to offering a more targeted engagement.

While requiring resource allocation (in terms of expertise among planning counter staff), some authorities provide a limited initial review of planning application submissions in an effort to reduce invalidations by highlighting any obviously missing documentation such as the appropriate planning fee, copies of notices or application particulars, which the applicant and or their agent may then address promptly. There is potential for Tipperary County Council to benefit from approaches implemented by other authorities to ensure the number of invalidated applications is minimised, while at the same time ensuring that relevant, high quality documents and drawings are received to form the basis of planning decisions.

Measures supporting public engagement

Tipperary County Council's website is the primary interface with the public and planning practitioners accessing and it provides a good resource to these stakeholders. For example, the online service for requesting pre-planning consultations is a leading good practice example in terms of providing clear information to the public. The website is generally compliant with regulatory and legislative requirements for publishing planning documentation online, both planning applications lodged and the issuing of planning decisions.

The Council's website includes comprehensive information regarding the planning process and development management in particular. The website provides online versions of forms for planning applications, section 5 applications, licence application etc., which are easily accessible to members of the public.

The website is divided up into subsets, having regard to the stages of the planning process / cycle and each subset includes a comprehensive set of frequently asked questions. Users are advised on how to make an observation / objection in respect of an application. The website includes the 14 Planning Leaflets published by the OPR and DHLGH as a resource for members of the public and stakeholders.

The Council indicated that the average timeframe for making planning decisions publicly available online reduced from 3.3 days in 2019 to 2.7 days in 2020. The Council also demonstrates efficiency in the publication of received planning applications on its website, with 99% of applications being made available on the website within the five-day timeframe, as required by Circular Letter PL/07 2020 issued by the Department of Housing, Local Government & Heritage. This is particularly positive and noteworthy.

Section 247: pre-application consultations

The Council engages in approximately 500+ pre-application consultations per annum, where the applicant can submit a request for a consultation either by completing an online form or by submitting a form by post.

Due to Covid-19 restrictions, consultations have been provided by phone / video conference in recent times.

Details of pre-planning consultations are uploaded to an internal-only GIS system. Where a planning application is submitted in relation to a site or proposal that was subject to pre-planning consultation, the use of the GIS system enables the relevant information to be flagged and made available on the planning application file, which once validated as per normal is made publicly available.

The Council's website contains information in relation to pre-planning application consultations, including an online portal for submitting applications¹⁰. This form is an example of good practice whereby the website provides a web link to GIS mapping and as such provides a backend geo-spatial database for the Council. The online form has several drop-down options which allows for structured data collection.

The promotion of the pre-application consultation process by the Council, its GIS system enabling flagging of such consultations on any eventual planning applications, and the continuity of service offered through the pandemic indicates that Tipperary County Council is highly effective in the operation of this statutory function.

e-Planning

The Department of Housing, Local Government & Heritage has initiated a pilot programme for the national rollout of e-Planning and Tipperary County Council has been one of the pilot local authorities. The pilot initiative began in Q4 2020 and will be rolled out across the 31 local authorities over an 18-month period. Tipperary County Council's participation in the pilot phase ensures that the Council will be in a good position for the general local authority sector-wide e-Planning rollout from 2022 onwards.

¹⁰ www.tipperarycoco.ie/eform/submit/pre-planning-request-form

Case Study

e-Planning, e-Government & IT

The Act provides a legal framework to facilitate the submission of planning application documentation through local authority websites. The legislative provisions deliver on the commitment to rollout online a greater level of planning services that was contained in the Government's 2016 action plan for housing and homelessness *Rebuilding Ireland* and reiterated in September 2021 in Ireland's new housing plan *Housing for All*.

The e-Planning project involves developing and implementing an online system through which planning applications are made, where applicants will be kept updated on the progress of their application.

The local government sector, supported by the Department of Housing, Local Government & Heritage, initiated a pilot programme for e-Planning with Tipperary County Council selected as a pilot authority. This pilot initiative began in Q4 2020 and will be rolled out over an 18-month period.

Tipperary County Council is currently testing the e-Planning project on a phased basis, with development testing and rollout of system features and functionality to be implemented in a step-by-step manner.

The delivery of this service will represent a significant enhancement in the range of online planning services currently available (such as development plan viewers). When complete, the e-Planning project will provide:

- a consistent national public-facing planning portal for planning applications;
- better data to track planning application trends nationally; and,
- more efficient and consistent application processing.

Performance Rating and Recommendations

From the material presented and wider background analysis conducted, the overall systems and procedures operated by Tipperary County Council in relation to its control of development functions are considered to be **effective**.

The OPR is satisfied that the Council has robust systems and procedures in place for the control of development, as evidenced by effective development management outputs, and its internal procedures manuals are further evidence of a systematic approach. Furthermore, involvement in the piloting of e-Planning, as well as the quality of planning-related information available through the Council's website, demonstrate a commitment to continuous improvement in service delivery.

While the delivery of this function is considered effective, the high rate of invalidations is nevertheless a point of concern which will need close monitoring and action to reduce the rate closer to the national average over the next three years, or sooner if possible. Successfully addressing the invalidation rate issue would be a necessary step to achieving a highly effective rating.

Finally, it is expected that the internal evaluation of the planning department's resource capacity, as set out in recommendation 1, will also consider the ongoing requirements of the development management team to ensure it remains properly structured and resourced to deliver this key planning function and to a high standard.

Recommendation 4 – Invalidation rates: having regard to the high level of invalidations, relative to the national averages and similar sized local authorities, the Council should put in place a targeted action plan over the next 2-3 years with a view to bringing validation rates closer in line with the national average.

The plan should include time-bound targets for improving the quality of applications being submitted and should consider making skilled staff available at the planning counter to work proactively with applicants / agents so they know exactly the standard that has to be reached allow for efficient validation.

The Council should continue to arrange public workshops / briefing sessions and should also consider what online resources might be effective (including a clearly visible technical validation checklist for agents and applicants preparing planning applications).

Recommendation No.	Grading	Responsibility
4: Invalidation rates	High	Senior Planner

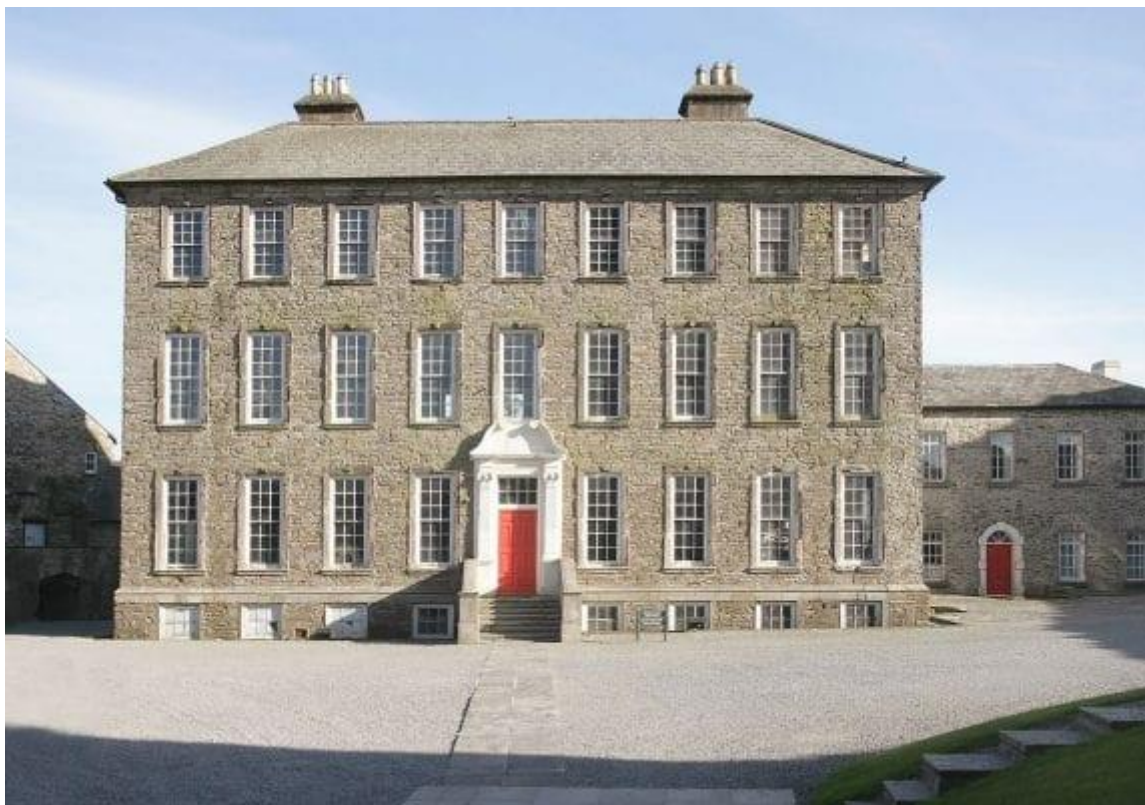
Architectural Heritage

Overview and Context

Under Part IV of the Act, local authorities have an obligation to create a record of protected structures (RPS) which includes all structures in their functional areas which, in their opinion, are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

This record forms part of the local authority's development plan. Local authorities are also obliged to preserve the character of places, areas, groups of structures or townscapes which are of special interest or that contribute to the appreciation of protected structures by designating them architectural conservation areas (ACAs) in the development plan.

Furthermore, local authorities are empowered to protect the architectural heritage of the area, in the interests of the proper planning and sustainable development, and to avoid deterioration, loss or damage. This will be reflected in the policies in the development plan and local authorities give practical effect to such policies through their development control function.



Roscrea Castle, Damer House

Local authorities have additional powers to ensure that buildings are not endangered either directly or through neglect and can make financial assistance available to owners of these buildings, in the form of conservation grants, to assist in this process.

Tipperary is a county with much built heritage that is both key to the identity and sense of place of the county and which, in many cases, represents nationally and internationally iconic locations that have strategic value in historic, cultural and economic terms, given the extent to which such assets generate tourism and economic activity.

There are approximately 2,500 protected structures in Tipperary County Council's administrative area. This figure is significant, especially when compared with approximate figures of similar sized local authorities, for example approximately 1,500 in Kildare and 1,300 in Kilkenny. As a legacy of the pre-merger of North and South Tipperary County Councils, there are currently nine separate RPSs spread across two county development plans and the seven former town Council development plans.

The Council identified the preparation of a single, county-wide RPS as a key priority for the planning department in its 2019 and 2020 annual service delivery plans.

General Systems and Procedures

The planning department does not have a dedicated architectural heritage / conservation team. The RPS is managed by the forward planning team, which comprises of eight FTE staff and has primary responsibility for the preparation of statutory plans. The forward planning team also oversees the administration of the various architectural heritage grants programmes.

On a day-to-day basis, development plan policies are implemented via development control decisions. Issues with regard to the endangerment of protected structures through unauthorised development are managed through the Council's enforcement function. While the planning department does not presently employ a specialist conservation officer, it is noted that the external expertise of a consultant conservation architect is available whenever required.

Given the legacy issue of nine separate RPSs, a single consolidated RPS is now being prepared for Tipperary County as part of the current county development plan review. A project team is in place for this purpose, consisting of a senior executive planner, an assistant planner and a senior staff officer. While the forward planning team has a monthly meeting during which architectural heritage issues are progressed, the RPS project team has its own distinct fortnightly meetings.

The Council has prepared a procedural manual for this consolidation project, which provides guidance for the comprehensive revision and consolidation of the nine RPSs, including the identification of new structures and possible removal of others. The manual, which has been updated at regular intervals, outlines a coherent approach to the overall project with procedural steps clearly grounded in the legislation. The project is broken down into discrete tasks, responsibilities are assigned and delivery timeframes identified.

Each structure on the existing RPSs is being surveyed, site inspections are conducted and reports prepared including maps, photos and recommendations regarding the inclusion or deletion of the structure. Other structures, which are recorded on the National Inventory of Architectural Heritage (NIAH) but are not currently included in a RPS, are also being surveyed for consideration for inclusion in the RPS.

It should be noted that the consolidation project is an onerous one. Between the revision of the existing RPSs and the consideration of possible additions from the NIAH, some 3,000 structures are to be included in the overall project and approximately 2,000 site surveys have been completed to date.

Given that site surveys are being conducted as an element of the RPS revision project, all existing protected structures will have had the benefit being recently evaluated for their condition.

In terms of monitoring protected structures for any deterioration in their condition and the use of the extensive powers available to a local authority in engaging with owners and intervening in particular cases, the planning enforcement team is, however, largely dependent on members of the public, or other stakeholder groups, to identify and report issues of concern to the Council.

There have been no relevant cases in the last six years whereby the statutory provisions of sections 59 and 60 of the Act (to compel owners to take restoration measures) were used and in view of the extensive stock of built heritage, this raises a question in relation to the effectiveness of follow-up on inclusion of buildings in the record of protected structures.

Public Engagement

As noted above, the public can play an important role in relation to heritage protection. The Council's website provides some guidance and documentation for members of the public, including links to the 'Architectural Heritage Protection Guidelines', the county development plan webpage, listings of private conservation architects and the application form for section 57 declarations.

Currently, each of the nine RPSs are available online as separate PDF booklets and each is mapped onto an online map viewer. It is anticipated that this facility will be updated as the RPS is consolidated as part of the current development plan review process. The webpage also provides links to PDF maps of 29 architectural conservation areas.

The Council's primary mechanism for general public engagement in relation to architectural heritage is through public consultation as part of the development plan review process. This includes an overall communications strategy via print media, radio and social media campaigns to generate public engagement.

Submissions received in the context of the development plan review are summarised and incorporated into the chief executive's report which, in turn, is presented to the elected members for consideration.

The Council staff submit proposed additions or deletions to the RPS to the elected members for consideration and arrange workshops with the members. The Council issues notifications issue to owners/occupiers in relation to additions or deletions to the RPS. The Council also issues notices to the Minister for Housing, Local Government & Heritage and prescribed bodies in this regard.

The Council's architectural heritage webpage also publicises details of the various incentives / initiatives available to owners and occupiers of protected structures. The webpage provides details of Council-administered schemes with applications forms including: the Built Heritage Investment Scheme; the Historic Structures Fund; the Pilot Stream for Vernacular Structures, the Pilot Stream for Historic Shopfronts and, the availability of reductions in Development Contributions. The webpage also provides details of other relevant initiatives are; including external links, etc., such as the DHLGH's thatching grants, Irish Georgian Society grants, and the Heritage Council grants programme.

Performance Rating and Recommendations

Based on the material presented, the Council is considered to be **effective** in the delivery of its architectural heritage protection function.

In order to work towards achieving a highly effective rating, the Council would need to mainstream activities currently being conducted on a project basis into its standard operating procedures. These activities include:

- revising the RPS as appropriate on an ongoing basis;
- that buildings potentially at risk are surveyed proactively;
- that the condition of structures are surveyed on a continued basis;
- continued and proactive engagement with owners / occupiers of protected structures, including with regard to enforcement action and / or maintenance issues (including the availability of incentives); and
- adequate resourcing of the team, with appropriate in-house expertise, to ensure a proactive approach to architectural heritage protection in the county.

Accordingly, the following recommendations are made in relation to this aspect of the review.

Recommendation 5 - Mainstreaming of practice / evaluation of resource requirements: the Council should evaluate whether current practice, which is being conducted on a project delivery basis, is mainstreamed into standard operating procedure.

The Council's evaluation should consider the possibility of having staff dedicated to delivering this service on a highly proactive basis and the potential to include specialist expertise within the planning department's staffing complement.

Recommendation 6 – Engagement: the Council should consider preparing a dedicated architectural heritage communications strategy to encourage ongoing engagement with the public and stakeholders, including prescribed bodies, in relation to protected structures. This strategy should include enhanced publicity with regard to the incentives available to assist owners / occupiers and the presentation of case studies of successful projects.

Recommendation No.	Grading	Responsibility
5: Mainstreaming of practice / evaluation of resource requirements	High	Management Team
6: Public Engagement	Low	Senior Planner

Land Activation

Context

From a Government policy perspective, ensuring that key locations for urban development and renewal identified in statutory development plans are activated and deliver the development the plan intended has become a major priority in recent years. Both central and local government recognise the planning process as a potentially strong mechanism for delivering on-the-ground action on a range of public policy objectives in relation to land activation.

These include enhancing the delivery of housing in a way that is well aligned with wider objectives including climate action, promoting a shift towards public transport and active travel, and tackling the significant levels of vacant and underutilised buildings in many locations, both urban and rural.

In terms of housing completions, CSO data shows that 324 homes were completed in Tipperary in 2020, of which 188 were one-off homes, 113 housing scheme type homes and 23 apartments. These compare to the latest housing supply targets provided by DHLGH of the need to deliver 5,990 residential units over the next six years under the county's development plan period which spans 2022-2028.

This highlights the considerable gap between predicted housing delivery to support National Planning Framework estimates of future housing with actual delivery, which has a number of underlying reasons including the viability of housing delivery in many parts of Ireland outside the major cities and towns.

In Tipperary, the rate of vacant dwellings per 1,000 population in 2016 was, at 51, broadly equal to the national average, compared to a high of almost 127 in Leitrim and approximately 20 in South Dublin.

Achievement of Government policies on housing, urban renewal, transport and climate action will be furthered through a proactive approach to ensuring key opportunity lands and properties in various strategic locations, identified through a strategically, local authority led plan-making process, are activated in the right manner and at the right times.

From an OPR perspective, a high-performing local authority that is successful in addressing land activation has:

- a) effective systems and procedures;
- b) up-to-date survey material and data;
- c) proactive engagement with land and property owners;
- d) a track record in successfully harnessing legislative mechanisms; and,
- e) an effective monitoring system that is publicly accessible demonstrating the awareness and resolve of the Council.

General systems and procedures

From an organisational perspective, its planning department is responsible for the vacant sites register (Urban Regeneration & Housing Act 2015), whilst its environment department is responsible for the derelict sites register.

While the Council does not have a dedicated land activation team, relevant initiatives are driven by working groups. The planning and economic group reviews vacant sites and properties and coordinates strategy regarding the purchase of key opportunity sites in need action. The group includes a vacant sites officer as well as planning, environment and housing representatives. The Project Ireland working group identifies and progresses projects under the Urban and Rural Regeneration and Development Funds (URDF and RRDF).

Vacant Sites Register

The Council also indicated that it varied the relevant town plans to incorporate a new mandatory objective relating to the regeneration and reutilisation of vacant sites. This objective was treated as the essential precursor to preparing its vacant sites register and potential levies and follow-up actions at the site specific level across the county.

In this regard, while the Council focused on key towns including Nenagh, Clonmel and Thurles, it also highlighted that implementation of the legislation poses certain challenges for rural authorities. These include the fact that lands being purposefully used for agricultural purposes are effectively outside the scope of the levy, and that many potential vacant sites are not subject to the levy because of wider infrastructure constraints, including strictures regarding the availability of or capacity in water services.

Nevertheless, the Council has established its vacant sites register and sites are added to this register where the Council is of the opinion that the site has been vacant for a minimum of 12 months preceding its entry on the register.

The Council has clear and detailed procedures in place, in line with legislative provisions, in relation to the addition of sites to the register and the significant progress made since the commencement of the legislation is as follows:

- | | |
|--|----------------|
| • Number of sites reviewed: Clonmel / Nenagh / Cashel: | 71 |
| • Number of sites inspected: | 71 |
| • Number of section 7(1) notices issued: | 27 on 22 sites |
| • Number of section 7(3) notices issued: | 2 |
| • Number of letters issued noting review in 2020: | 16 |

Tipperary County Council engaged with the landowners in all cases above regarding inclusion on the record.

Following the receipt of these submissions, the Council issued letters on 16 sites indicating that, on foot of the submissions from land owners, which indicated proposals for activating the sites, the sites would not be added to the register at this time and they would be reviewed in 12 months. 10 of these sites are now active in the planning process.

There are currently two sites on the Council's vacant sites register as set out in table 3. These sites have been on the register since late 2019 and the Council is engaging with landowners to progress their activation. The Council anticipates that further sites will be added to the register over the coming year upon completion of further site inspections and surveys.

Townland	Market site value	Levy amount
URH57/0001 Cashel	€ 291,333	€ 20,393
URH55/0011 Clonmel	€ 750,000	€ 52,500

Table 3: vacant sites register

Proactive implementation of this new and complex legislative code by the Council is both noted and welcomed and is a very positive sign of Tipperary County Council taking on its new responsibilities in the area of land activation.

Derelict Sites Register

The Council's derelict sites register is maintained by the environment department. The planning department is consulted in relation to action taken in all cases in accordance with an internal protocol. Information on the Council's derelict sites procedure, in addition to a copy of the register, is available on the Council's website¹¹.

In relation to reports of dereliction from the public, these are investigated and the initial focus of the Council is on establishing ownership, following which proactive engagement with derelict property owners is pursued in accordance with the procedures set out in the Derelict Sites Act 1990. The Council did not provide any recent samples of sites successfully resolved through the derelict sites process.

Local Area Planning

Local area plans are an important policy and implementation instrument for focusing on key urban development opportunities and priorities. As detailed earlier in this report, an extensive programme of new local area plans is to be progressed by Tipperary County Council, with some currently underway in the case of the Cahir Local Area Plan review.

Though reviews of such plans can become contentious at a community and political level when a new focus on implementation flowing from hierarchical settlement strategies is pursued, the Council is attempting to refocus on the key developable lands and is reassigning a large part of the legacy land zoning bank (40ha of land) in Cahir to agricultural use.

Though challenging to implement, this approach is to be commended as it ensures that such locations are appropriately planned for sustainable development, while also addressing zonings in local area plans that have not produced the necessary development.

Use of Compulsory Purchase Order (CPO)

As a last resort, the Council indicated that compulsory purchase is both an action that it is prepared to contemplate in achieving the objectives of its development plan and a step it has taken, notwithstanding the complexities and risks that operating the legislation brings. In 2020, three CPO applications were submitted to An Bord Pleanála for consideration¹².

¹¹ www.tipperarycoco.ie/environment/derelict-sites

¹² www.pleanala.ie/en-ie/case/306458

Project Ireland 2040 Team

In recent years, Government policy, through the Project Ireland 2040 initiative, has committed very significant capital investment to both urban and rural regeneration initiatives to support both the achievement of planning objectives, including land activation, and also wider economic social and environmental objectives.

To capitalise on this, the Council established a Project Ireland team to oversee the implementation of capital projects under both the URDF and RRDF.

The following projects are currently being progressed by Tipperary County Council following successful allocation of funding:

- Liberty Square (Thurles) Enhancement Scheme;
- Clonmel 2030 Transformational Regeneration;
- Fethard Town Park;
- Templemore Town Hall Cultural & Enterprise Centre with Civic Plaza;
- Tipperary Town Market Yard and River Arra Walkway;
- Nenagh Historic & Cultural Quarter Tourism-led Regeneration Plan;
- Carrick-on-Suir Regeneration Plan; and
- Cahir Town Centre Regeneration as a Living-Working Quarter.

The Council submitted two further applications for under the second URDF call for proposals in respect of Nenagh (A Pathway for Low Carbon Society: A Centre of Excellence for Sustainable Energy driving the Transformational Urban Regeneration of Nenagh Town Centre) and Clonmel (Clonmel 2020 - Transformational Regeneration). The application for Nenagh was successful, securing €9.52 million.

Approval of such a diverse range of projects across a number of locations in the county is a clear marker of a strong approach to capitalising on the available opportunities and seeing the linkages between planning and implementation in regenerating towns and villages across the county. There is a clear commitment by Tipperary County Council to regeneration and land activation through its increased activity in capital project such as these.

Engagement with Utility and Infrastructure Providers

As part of the completion of capital works under Project Ireland 2040, engagement with utility and infrastructure providers takes place as part of the pre-planning process, prior to the finalisation of the part 8 planning process.

Engagement with the utility providers is undertaken by the project manager in each district with responsibility for the delivery of capital works. Any future infrastructure works planned by the providers are considered in the finalisation of the design of the capital works. Good examples of proactive engagement with infrastructure providers were provided in respect of projects in Clonmel and Carrick-on-Suir.

www.pleanala.ie/en-ie/case/307931
www.pleanala.ie/en-ie/case/308144

The project managers for Tipperary County Council and the infrastructure providers consider any upgrades to the utilities that could be carried out in parallel with the delivery of the capital works particularly public realm town centre works.

The continued engagement with the utility providers and outcomes agreed is reported back to the planning department through the steering group and project management meetings undertaken in the management of the capital works.

Performance Rating and Recommendations

From the material presented and wider background analysis conducted, the Council's land activation functions are considered to be **effective** in that statutory functions are in the main delivered, with ample evidence of:

- a) an appetite for taking on new and complex functions such as the vacant site implementation process;
- b) proactivity in looking afresh at its stock of local area plans;
- c) strong commitment to the Project Ireland 2040 implementation process through the URDF and RRDF; and,
- d) engagement with infrastructure providers.

For the Council to work towards a highly effective rating, attention should be given to the Council's data management systems so that key elements of land activation are appropriately recorded and mapped to proactively inform development strategy.

Recommendation 7 – Data Management: the Council should over the next 12-24 months build up an integrated, publicly available GIS based management information system and database of vacant sites, derelict sites, key town principal streets occupancy record and infrastructural audit of zoned but undeveloped lands. Such analysis should be largely available by the commencement of the approaching round of local area plan preparation.

Recommendation No.	Grading	Responsibility
7: Data management	Medium	Senior Planner

Planning Enforcement

Overview and Context

Tipperary County Council operates its enforcement functions out of two Council offices on a north / south county basis. The enforcement team is managed by two senior executive planners who are also part of the wider development management team. The enforcement team monitors development, investigates complaints, issues warning letters, enforcement notices and pursues legal action as required.

During 2019 the enforcement team investigated 202 cases¹³, representing approximately 3% of the national figure (broadly in line with the county's share of national population). The Council closed 168 cases during 2019, or 2.7% of the national total for cases closed that year. Of the 168 cases that the Council closed, 43% led to enforcement proceedings.

The total number of open enforcement at end-2019 was 641 (3.7% of the national total). While a significant number, especially in the context of 168 cases closed in 2019, the Council's caseload volume is relatively consistent with national averages as reported by NOAC¹⁴.

Tipperary County Council uses an IT back-office system, i-enforce, for enforcement case management, however it is outdated and a new case management system is required in the short term to facilitate comprehensive monitoring of enforcement cases.

Improvements in the back-office ICT capability of the Council's enforcement systems would enhance the ability to analyse trends over time including a breakdown of those instigated without any external complaint being received.

General Systems and Procedures

Analysis of Tipperary County Council's procedural manuals indicates that appropriate systems and procedures are in place for planning enforcement, including the following:

- Templates for closing files, enforcement notices, warnings letters and legal proceedings are included. The closing file memo provides a template setting out the reasons (based on assessment). The enforcement notices report provides for two scenarios in the recommendation and this includes unauthorised development and non-compliance with planning conditions. Both reports / memos are prepared and signed by a technician / planner and counter-signed by a senior executive planner.
- The legal proceedings template sets out the chronology of the enforcement case, from identifying the unauthorised development to issuing a warning letter and an enforcement notice. A number of legal requirements are set out in a procedural manner. The report concludes with a recommendation that the file be referred to the Council's solicitors to institute legal proceedings. The report / memo is signed by a technician / planner and counter-signed by a senior executive planner. This is evidence of a robust procedure being implemented.

¹³ NOAC Performance Indicators Report, 2019

¹⁴ NOAC Performance Indicators Report, 2019

Enforcement Action and Output

In line with a more general trend across the country, Tipperary County Council experienced a significant increase in enforcement complaints¹⁵ in 2020 relative to 2019 (250 vs 185), amounting to a 35% increase.

The number of enforcement complaints investigated is generally steady over the six-year period, as illustrated in the graph below. However, the number of enforcement cases closed by Tipperary County Council over the last six years has been falling from a high of 230 in 2016 to 167 in 2020.

Based on provisional figures for Tipperary, there were 724 cases on hand at end-2020, which is an increase of 83 from 2019. Whilst acknowledging the increase in this figure, it is worth noting that the ratio of complaints investigated / closed during a year relative to complaints on hand at year-end in Tipperary is comparable to the national average. The cases on hand remain active due to a combination of reasons including cessation of site works whilst awaiting planning permission, initiation of legal proceedings, court adjournments, referral to An Bord Pleanála for retention application, etc.

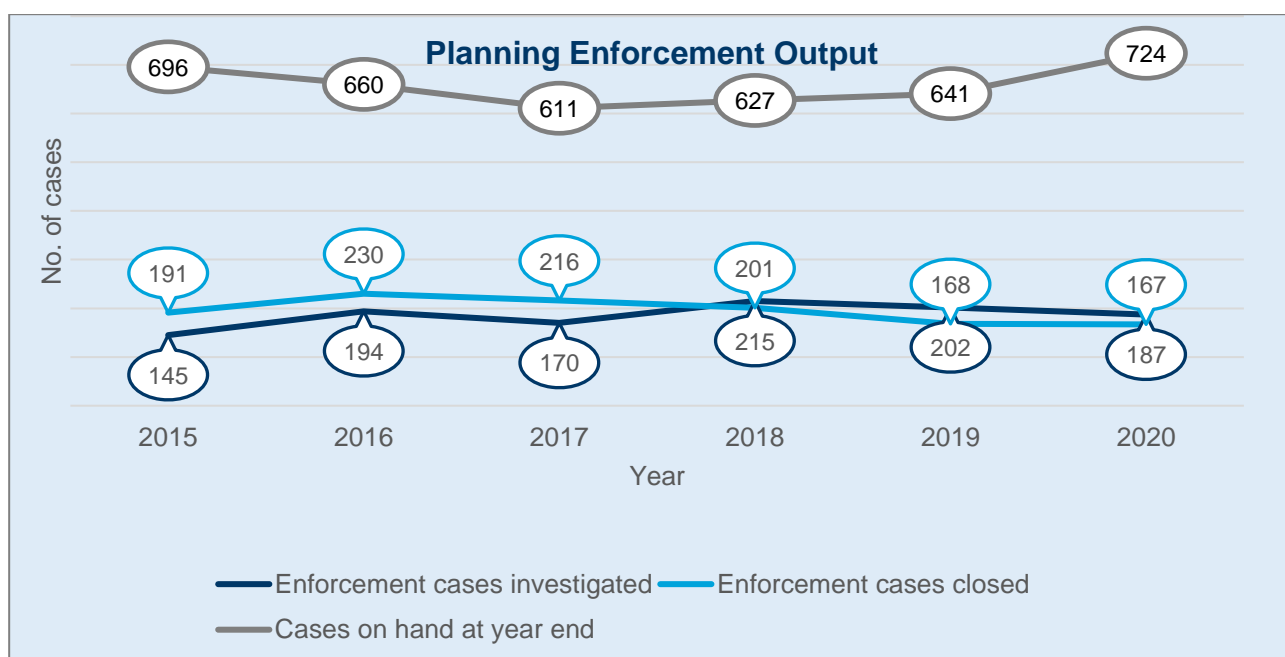


Figure 6: Planning enforcement output

Figure 7 illustrates the percentage of cases closed by the Council that were either closed by dismissing the case or by enforcement proceedings. Tipperary County Council's proportion of cases closed by enforcement proceedings in the last number of years is comparable to the national average.

¹⁵ Complaints received are distinct from enforcement complaints investigated.

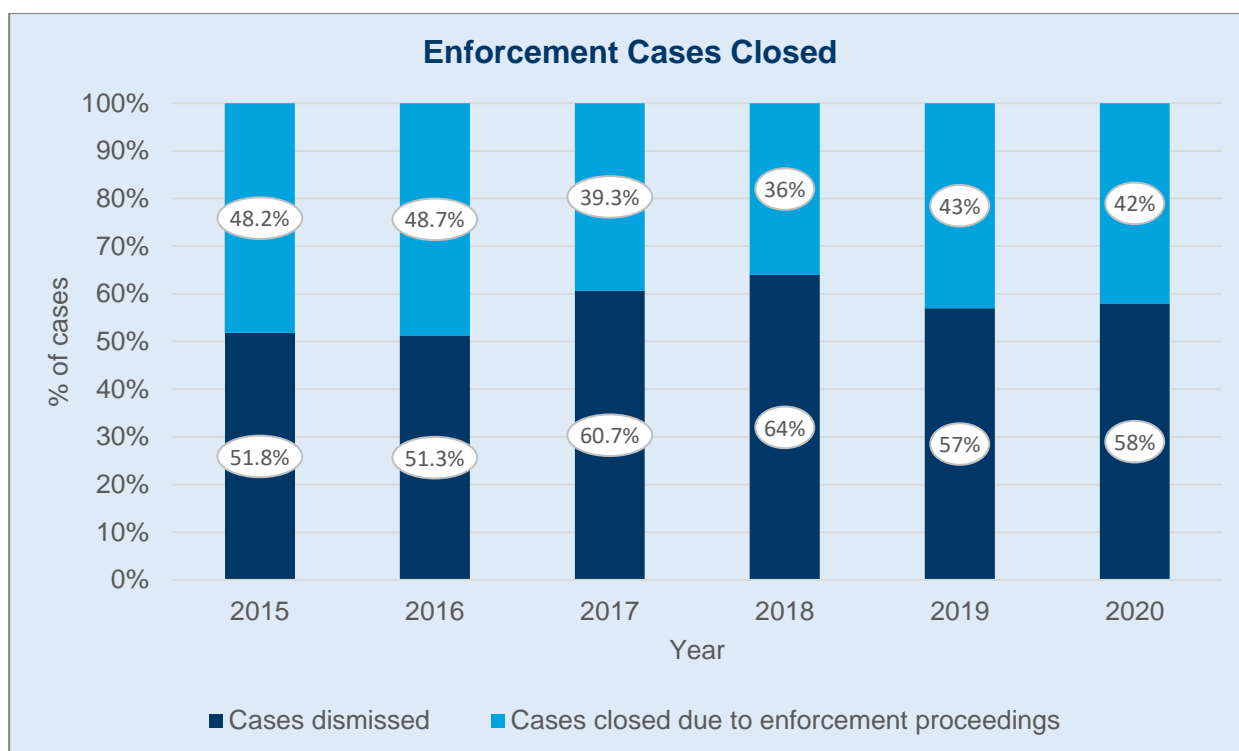


Figure 7: Enforcement cases closed

Measures Supporting Public Engagement

The Council's website is the primary communication channel for members of the public raising planning enforcement complaints in Tipperary.

The website provides useful information for members of the public including details required on how to make a complaint, steps that will be taken when the complaint is received and length of time taken to investigate the complaint. The website provides a complaint form which members of the public can submit by email, by post, or in person.

The information available on the website, while useful could be expanded to include 'frequently asked questions' including guidance on types of exempted development, section 5 declarations, how to find out if development has planning permission, issues planning enforcement does not deal with, and penalties for unauthorised development.

There are useful resources available that can support a local authority planning enforcement website page, for example the recently published OPR Planning Leaflet no. 6 'A Guide to Planning Enforcement in Ireland'. This guide is supplementary to standard local authority website content and will raise public awareness of planning enforcement.

Compliance with provisions under the Act and the Ministerial Directive

The Act sets out the process for the planning enforcement function, including the procedure for the issuing warning letters, decisions to take enforcement action and the issuing of an enforcement notice. The enforcement procedure manual prepared by Tipperary County Council is a well-structured document and clearly defines the individual roles and procedures required to take enforcement action.

In addition to the above requirements, it is also a requirement to provide an enforcement register including details on all enforcement notices issued. Tipperary County Council has a register which records the file history in chronological order and also includes a location map of each enforcement case.

In 2013, the Minister for Housing, Local Government & Heritage issued a directive under section 29 of the Act requiring local authorities to engage in enhanced enforcement monitoring, including the collation of statistics and information relating to enforcement outcomes, the provision of annual reports on enforcement activities to elected members, and assisting DHLGH in raising public awareness about the importance of enforcement of the planning code.

The policy directive in particular highlights that, in discharging functions under Part VIII of the Act, local authorities must prioritise cases that would have required an EIA, a determination whether EIA was required and an appropriate assessment under the Habitats Directive.

In this regard, no specific information was provided in relation to whether it had targeted development subject to EIA, AA etc. for random spot-checks and compliance with any particular environmental conditions.

On the other hand, based on the information submitted by the Council, it is evident that there are well-developed systems and procedures in place to enable the Council's planning enforcement function to operate effectively within the provisions of the Act and in line with the section 29 directive. There is a clear distinction between the administrative and technical procedures with regard to the issuing of warning letters, investigating unauthorised development, issuing of an enforcement notice, closing an enforcement file, and initiating legal proceedings.

There is also evidence of a culture within the enforcement team of openness to new ways of working, examples including the consideration being given to implementing an online complaint system, the initiative to address unauthorised signage on motorway and national road networks and the use of drones to carry out certain inspections.

Performance Rating and Recommendations

With clear procedures in place, and enforcement outputs broadly in line with national patterns, the Council's delivery of its planning enforcement function is considered to be **effective**. While the ongoing volume of open cases is noted it is also recognised that the ratio (of live cases at year-end compared to cases closed in during a year) while generally in line with national trends, is tending to drift upwards.

A highly effective rating could be achieved with the prioritisation of additional / dedicated resources being deployed to the enforcement team to allow it prioritise addressing the existing enforcement caseload but also to address possible unauthorised development more proactively, through spot-checks, etc. Furthermore, the implementation of an adequate information management system which would allow for greater monitoring and the collation of statistics and information relating to enforcement outcomes, and enhanced tracking of planning permissions and commencement notices to allow for early enforcement actions, where necessary.

Recommendation 8 – Organisation of Enforcement Team: given the volume of enforcement cases being processed / awaiting processing, the Council should consider how the capacity of the enforcement team could be strengthened, with an emphasis on assigning dedicated enforcement officers to drive the progression of the enforcement caseload without being diverted to other functions. This exercise should tie in with recommendation 1 above.

Recommendation 9 – Enforcement monitoring systems: the Council should implement a fit-for-purpose case management system to replace i-enforce and enable the production of comprehensive data regarding planning enforcement outcomes for inclusion in reporting, including statutorily required reporting to elected members. Special attention should be built in to such systems to ensure proper monitoring of development subject to EIA / AA in line with the requirement of the Section 29 Policy Directive. Aligned with this, the Council should also put in place a publicly available GIS-based monitoring system for enforcement.

Recommendation 10 – Engagement: the Council should enhance the level of information available on its website to assist members of the public in making meaningful planning enforcement complaints. The planning enforcement page on the Council website would benefit from a review with the objective of proving a more interactive and informative facility to the public.

Recommendation No	Grading	Responsibility
8: Enforcement Team Structure	High	Dir Services
9: Enforcement Monitoring Systems	Medium	Dir Services
10: Engagement	Low	Senior Planner



Nenagh

Environmental Assessment

Overview and Context

The requirements of the EU Environmental Impact Assessment (EIA) Directive ensures that certain developments must be assessed in terms of their likely significant effects on the environment before development consent is given.

The Strategic Environmental Assessment (SEA) Directive requires that an SEA shall be carried out on statutory plans. SEA is the formal, systematic evaluation of the likely significant environmental effects of implementing a plan or programme before a decision is made to adopt the plan or programme.

Appropriate Assessment (AA) arises from Article 6 of the Habitats Directive (92/43/EEC). AA is a process that involves a focused and detailed assessment impact of the implications of a plan or project, alone or in combination with other plans or projects, on the integrity of a European site solely in the view of its conservation objectives.

Strategic Flood Risk Assessment (SFRA) is a requirement under the Act as per the section 28 ministerial guidance 'The Planning System and Flood Risk Management s' (2009) as amended by Circular PL 2/2014.

These environmental assessments are integral components of planning functions and robust systems and procedures are key in ensuring efficiency in the planning process and to safeguard against potential judicial review challenges.

General Systems and Procedures

Analysis of the Council's adherence to the requirements of these directives, and associated Government guidance, would indicate that established systems are in place and that these systems are applied, as relevant, across the forward planning, development management and planning enforcement functions including the following:

- Strategic Environmental Assessment: the Council provided samples of SEA processes for variations of the county development plan, including sample SEA documents.
- Appropriate Assessment: the Council provided various examples including AA conclusion statements.
- Strategic Flood Risk Assessment: the Council provided several examples of SFRAs relating to forward planning.
- Reporting: the Council provided environmental planning reports for a significant renewable energy development, part 8 development, which sets out the Council's reporting structure and templates for EIA and AA and flood risk assessments.

Compliance with provisions of the Act

Parts X and XAB of the Act set out the statutory provisions for EIA and AA respectively. Additionally, the following section 28 guidance is available to planning authorities in relation to environmental assessments including the following:

- Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities (2009)

- Guidelines for Planning Authorities and An Bord Pleanála for carrying out Environmental Impact Assessment (2018)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)

In addition, the OPR recently published practice notes on AA and EIA which will be a useful resource to the Council.

European Court judgements also inform environmental practice and procedure and, as such, the evolving nature of environmental judicial reviews and court judgements means that obligations in relation to environmental issues are continuously advancing. There is therefore a continued requirement for local authority staff training and upskilling to implement the Habitats and EIA Directives effectively.

The analysis of the Council's application of the environmental directives and its practice in accordance with section 28 guidance would indicate a robust system is in operation with regard to environmental assessment. The OPR noted, in particular, the following.



Kilsheelan Bridge

Habitats Directive (AA)

The Council supplied various documentation that illustrates its practice in implementing the Habitats Directive, including an 'Appropriate Assessment Determination' and an 'Appropriate Assessment Conclusion Statement'.

These included documents that were prepared as part of a variation to a previous county development plan. The AA Conclusion Statement clearly sets out how the findings of the AA were factored into the plan, the reasons for choosing the plan as adopted, in the light of other reasonable alternatives considered as part of the AA process, and a declaration that the plan as adopted will not have an adverse effect on the integrity of European Sites. It also sets out a robust template of the process followed.

The AA Determination, which follows the preparation of the AA Conclusion Statement, determines that the risks to the safeguarding and integrity of the qualifying interests and conservation objectives of any European Site were addressed by the inclusion of achievable mitigation measures with the statutory plan(s) as varied.

It is evident from these documents that Tipperary County Council has a robust template in place for implementing the Habitats Directive in relation to its statutory plan-making function.

The Council also provided details of a renewable energy development seeking a 40-year permission. The planning application was accompanied by an Environmental Impact Assessment Report (EIAR) and a Natural Impact Statement (NIS) and the assessment in the planner's report set out the reporting process for environmental assessments.

The structure and the scope of the planner's report is broadly consistent with the recommendations contained in the 'Guidelines for Planning Authorities and An Bord Pleanála for carrying out Environmental Impact Assessment' (2018).

The reporting process within the planner's report in relation to AA Stage I and Stage II Assessment is also broadly consistent with the 'Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities' (2009). The application documentation also includes EIA portal confirmation notice. The planner's report, as evident from this application, would indicate evidence of environmental reporting.

The Council also provided details of an application to An Bord Pleanála made under section 177(AE) of the Act relating to proposed development approximately 1km from the Ara River. The documentation includes the Council's reporting process in the preparation of screening for AA, NIS and a site-specific flood risk assessment. An Bord Pleanála, in their assessment and decision-making, were satisfied with the environmental process and procedural aspects of the Council's environmental reporting for this development.

The Council also uses a 'Habitats Directive Assessment Screening Form' as a template to determine whether an AA is required to regularise any unauthorised development. The use of this screening form demonstrates good practice by the Council.

In general, the documentation presented would indicate that the Council has established an effective practice for adhering to the Habitats Directive in terms of reporting, however the extent of wider resources to support the implementation of the directive and its complexities, including the upskilling of staff in specialist environmental fields, was not clear.

Environmental Directives (EIA and SEA)

The Council outlined changes to environmental impact assessment processes it implemented as a result of regulations introduced in 2018. This included informing all relevant staff and holding meetings for staff and management, external workshops, updating relevant procedural / template documentation and facilitating internal staff training. This practice for disseminating crucial environmental regulations is welcomed and provides a working template for future iterations.

The submission from the Council includes documentation in relation to a SEA for a variation to the county development plan which sets out the process of how environmental considerations have been integrated into the variation. It is evident from the documents submitted that the Council has a strong reporting structure in place, evaluating and reporting on key issues including the reasons for choosing the variation in light of the other reasonable alternatives dealt with and the measures decided upon to monitor the significant environmental effects of implementation of the variation.

Another example provided by the Council included details on a planning application related to a piggery. The application was accompanied by an EIAR and the assessment in the planner's report sets out clearly the process of assessment for such a development, including the requirement to outline the likely significant effects which are identified, described and assessed. The assessment process and reporting structure is consistent with the relevant ministerial guidelines.

The Council also provided copies of its 'EIA Pre-Screening' and 'EIA Preliminary Screening' forms, which are template forms used to determine whether an EIAR is required for regularising unauthorised development. The provision of a template for use by local authority staff is good practice and ensures consistency in the Council's work.

Strategic Flood Risk Assessment (SFRA)

In relation to SFRA, the Council provided an example of a Stage 1 Flood Risk Assessment for variations to the county development plan. The proposed variations relate to revised settlement plans for towns and villages identified as service centres, local service centres and settlement nodes in the county settlement strategy and hierarchy. The Stage 1 FRA evaluates 54 settlements in the county, including 14 service centres, 12 local service centres and 28 nodes, demonstrating a comprehensive approach.

The evidence-based data includes draft flood maps prepared under the Shannon and Suir CFRAM¹⁶ Studies and is part of the process to determine whether a Stage 2 Flood Risk Assessment shall be carried out, and ultimately informs decision-making on land use planning. The documentation submitted by the Council demonstrates a robust procedure is in place for SFRA.

The Council also provided details of a planning application for a proposed development located within an area designated at risk of flooding. The application was accompanied by a comprehensive flood risk assessment and the assessment in the planner's report sets out clearly the process of assessment for such a development located within an area of flood risk, and the planner's report follows the process set out in the 'Planning System and Flood Risk Management Guidelines' (2009) to guide the decision-making process.

¹⁶ Catchment Flood Risk Assessment and Management

Overall, Tipperary County Council demonstrated that good template reports are in place for implementing the Habitats and EIA Directives and their approach to applying Strategic Flood Risk Assessments, for both statutory plan making functions and development management, is robust. Although it is evident that there is good practice the submission did not make reference to any internal manual or internal guidelines for staff, either administrative or planners, reporting on environmental assessments.

Performance Rating and Recommendations

From the material presented and wider background analysis conducted, the Council's environmental assessment functions are considered to be **effective** in that the process for implementing the Habitats Directive and EIA Directive is well established.

A highly effective rating would have been considered if there was more evidence available regarding the Council's process manuals, details in relation to the development of staff expertise. Accordingly, the following recommendation is made in relation to this operational process:

Recommendation 11 – Environmental Assessment Training & Guidance: the Council should review whether it has adequate levels of expertise among staff in respect of environmental assessment requirements. In addition to formal training opportunities, the review should consider what internal procedures for knowledge dissemination could be put in place and should explore opportunities for networking across other similar local authorities.

The Council is advised to have regard to the OPR practice notes 'Appropriate Assessment Screening for Development Management – Practice Note 01' and Environmental Impact Assessment Screening - Practice Note 02'¹⁷.

Recommendation No	Grading	Responsibility
11: Environmental Assessment Training & Guidance	Low	Senior Planner

¹⁷ Both documents are available on the OPR website at: www.opr.ie/planning-practice/

Part XI

This section of the review focuses on functions under Part XI of the Act, specifically section 179 (local authority own-development) and section 180 (taking-in-charge of estates).

Part 8: local authority own-development

Context

Local authority own-development, often referred to as ‘part 8’ development, is provided for under section 179 of the Act while part 8 of the Regulations sets out the required procedure to be followed when carrying out such developments.

A key component of the part 8 process is public consultation, whereby the local authority must provide notice of the proposed development and invite submissions or observations from the public. It is also crucial that the local authority has appropriate internal liaison procedures to ensure that the appropriate departments / staff members, with the necessary expertise, input into the progression of a part 8 development proposal.

General systems and procedures

The Council has an internal protocol document regarding part 8 development. The document is detailed and clear as to what process should be followed by the section / team within the Council proposing the development (the ‘lead section’) and any other section involved in the process.

The protocol references the appropriate provisions of the legislation and regulations and sets out that staff involved in any part 8 process must familiarise themselves with the statutory requirements. The protocol establishes that other teams should prioritise the provision of support and expertise to the lead section when progressing a part 8 proposal.

The lead section is advised to arrange a meeting (‘pre-part 8 meeting’) at the earliest possible stage in the process with the:

- district planner and district engineer;
- roads department;
- water services;
- environment department; and,
- the validation technician of the planning department.

The lead section may also consult with the planning department to ensure the appropriate personnel are involved in the process. The protocol sets out clear criteria for the lead section to consider in advance of the pre-part 8 meeting, e.g.

- is the development exempt;
- is it a prescribed class of development for the purposes of part 8;
- does it require EIA or AA;
- does it qualify as strategic infrastructure development;
- is it subject to major accident hazard controls; and,
- whether the development involves a protected structure or national monument.

The protocol also clearly identifies the timelines associated with the part 8 process and requires that, prior to advertising the proposed part 8 development, all documentation must be submitted to the planning department's validation technician who carries out a final check. This demonstrates that the planning department has clear and stated oversight of the part 8 process, which is welcomed by the OPR.

The protocol document provides clear instruction to the lead section in relation to advertising a part 8 development and also regarding the processing of public submissions on a proposed development.

Reports on submissions, as well as all other documentation, are then forwarded to the development management team for preparation of the chief executive's report. This demonstrates that the planning department is appropriately engaged in the part 8 process. Further, a template chief executive's report is provided which addresses the requirements of the Council under the regulations.

Tipperary County Council provided details of 41 part 8 processes that took place over the last three years, with 39 of these being approved by the members and 12 being subject to modification. Of the approved projects, 31 have been initiated or nearly completed. There was a wide range of Part 8 projects approved by the Council, with over 60% of projects approved either housing or public realm / enhancement, and other projects such as car parks, road schemes, digital hubs, business centres, etc.



Tipperary County Council Housing Development, Glenconnor, Clonmel

Environmental Assessment

The council clearly understands that where a part 8 development requires EIA or AA, it must be approved by An Bord Pleanála.

The protocol document indicates that screening for EIA / AA, however, is a matter for the Council and therefore the lead section must screen each part 8 development for EIA / AA and add the screening reports to the file.

Performance Rating and Recommendations

From the material presented and analysis conducted, the Council's systems and procedures in relation to local authority own-development are considered to be **effective** in that the statutory functions are generally well delivered, with ample evidence of:

- procedures for progressing proposals with responsibility being assigned clearly to the appropriate personnel;
- oversight of and engagement in delivering this function by the planning department; and,
- evidence of cross-departmental engagement within the Council to ensure that appropriate expertise can be availed of when progressing proposals.

To work towards a highly effective rating, the Council should consider its procedures for post-project review, with a view to improving the monitoring of project implementation to ensure high quality and standards in part 8 project delivery. Accordingly, one recommendation is made in relation to this operational process.

Recommendation 12 – Part 8 Post-Project Review: the Council should put procedures in place in the next 12 months to ensure that all part 8 projects are subject to a post-project review following implementation. The implementation of such a procedure will provide for more effective compliance in relation to part 8 projects, making sure the agreed terms and conditions of projects are fulfilled, and thereby will enhance public confidence in the process and support for future projects.

Recommendation No.	Grading	Responsibility
12: Part 8 Post-Project Review	Medium	Snr Planner

Taking-in-Charge

Context

Local authorities' responsibilities in relation to the taking-in-charge of residential estates are set out under section 180 of the Act.

The local authority must initiate procedures to take a residential estate in charge under section 11 of the Roads Act 1993 when a development of two or more houses which involves the construction of roads and services to facilitate the development has been completed to the satisfaction of the local authority, where requested by the developer or majority of the owners of the houses involved.

The local authority must initiate these procedures within six months of receiving the request. Once an estate is taken in charge, the local authority assumes responsibility for certain services located within the common areas and public areas in that estate.

The taking-in-charge of estates posed a significant challenge to local authorities with the notable increase in urban housing developments over the last 20 years or so and increasing instances of developers not completing estates to the satisfaction of the local authority, in addition to resource cuts imposed across local authorities during the economic downturn. These challenges contributed to a deceleration in the number of estates being taken in charge across the country.

In 2015, DHLGH undertook a survey of residential estates to be taken in charge which amounted to a national total of 5,566 estates, with 295 of those located in Tipperary.

In 2016, Tipperary County Council availed funding from the Department under the National Taking in Charge Initiative (NTICI) in respect of 15 residential developments and has been progressing with the taking-in-charge of estates in recent years. To date, Tipperary County Council has taken 137 estates in charge.

General systems and procedures

Following the 2014 merger, new staffing structures, file management systems and procedures were put in place to manage the taking-in-charge process across the newly merged county.

Responsibility for the taking-in-charge of estates lies with the enforcement section of the Council's planning department. The Council has established a cross-departmental taking-in-charge project team which is led by the senior executive engineer, with responsibilities including:

- processing taking-in-charge applications;
- working with the developers to progress unfinished housing estates; and,
- ensuring that bonds are in place.

This project team, chaired by the Director of Planning Services, has been established to progress the issue of taking-in-charge across the county. The team includes senior staff from roads, water services and environment. The team meets regularly to prioritise the work programme and to agree key objectives including the number of estates to be taken in charge on an annual basis. These objectives are monitored through the Council's performance management and development system.

In 2015, the Council signed a memorandum of understanding with Irish Water and have been progressing applications together since.

The senior executive engineer manages the taking-in-charge process up to the point where it goes to the roads section for advertising.

At the date of the Council's submission, Tipperary County Council had 137 estates taken in charge with 45 applications for taking-in-charge on hand (10 of those being developer provided infrastructure estates). Five of those were being advertised and four were with the roads department for advertising.

The following table provides information on all estates taken in charge by the Council since 2014:

Year	No. of estates taken in charge	Average length in months
2020	9	56
2019	26	43
2018	25	51
2017	18	33
2016	27	153
2015	7	40
2014	0 (no MOU with Irish Water in place)	

Table 4: Estates taken-in-charge by Tipperary County Council since 2014

Taking-in-charge policy

Among the documentation submitted by the Council includes a draft taking-in-charge policy which is due to be adopted. The document details the requirements for a valid taking-in-charge application and the procedures and protocols to be followed to progress a residential housing development to taking-in-charge under section 180 of the Act.

The policy clearly sets out the legislative provisions regarding the obligations of the local authority with regard to taking-in-charge and also the obligations in relation to various scenarios, for example:

- where an application for taking-in-charge of development is received within four years of the date of expiry of the planning permission and completed in compliance with granted permissions;
- where an application for taking-in-charge of development is received within four years of the date of expiry of the planning permission and not completed in compliance with granted permissions; or,
- where an application for taking-in-charge of developments is received more than four years after the date of expiry of the planning permission and not completed in compliance with permissions granted.

Housing estates register

The Council maintains a register on which all housing estates in the county are logged. The register includes details on housing estates:

- a) completed and taken in charge;
- b) completed and not taken in charge; or,
- c) under construction / part completed and not yet taken in charge.

The register contains 317 estates, with 15 incomplete / under construction, 137 taken in charge, 45 applications for taking-in-charge being processed, and remaining estates complete with no applications to take in charge received.

The planning department has a working document referred to as the 'Taking-in-Charge Operational Plan' which tracks the status of each development through the taking-in-charge process. This operational plan is illustrated through an excel register and outlines the following status of each development:

- awaiting assessment;
- under assessment;
- Irish Water status;
- roads status; (advertised / not advertised)
- developer provided infrastructure; and
- taken-in-charge status.

Bonds / securities

It is essential that permission for a residential development of two or more houses with the provision of new roads, etc. is provided by way of bond, cash deposit or otherwise, to secure its (public infrastructure) satisfactory completion. This security ensures that the local authority can ensure the provision / completion of necessary services (including roads, footpaths, lighting and open space) in the event of a default by the developer.

The Council has clear procedures in place to ensure bonds are submitted and tracked, as follows:

- When a commencement notice is submitted, the development contributions staff will email the bond staff the bonds / cash deposits are entered on Sharepoint and followed up on.
- If the bond / cash deposit has not been received from the developer after 15 days, then a further two letters are issued giving 10 days and 7 days respectively to submit same.
- If a bond / cash deposit is not submitted at this stage, a warning letter under section 152 of the Act is issued, giving the developer four weeks to submit the bond.
- Failure to submit results in enforcement action and follow on legal action as appropriate.
- Enforcement notices give the developer a further four weeks to comply with the bond condition of planning permission.

All bonds are tracked on Sharepoint and cash deposits are also tracked in a spreadsheet. The database is checked regularly for bonds due to expire, which the Council then follows up to ensure no expired bonds are in place.

Tipperary County Council's bond requirement is €8,500 per residential unit. The Council's register has 42 estates with cash bonds totalling €1.5m and with insurance bonds for 19 estates totalling €1.65m. No bonds were called in during 2019 and 2020. In 2018, five bonds were called in.

A spreadsheet of cash deposits is maintained by the finance department. A certificate of balance at 31st December each year is issued by the finance department. The planning department must reconcile the principle amount against SharePoint / spreadsheet records.

This OPR very much welcomes the Council's detailed and documented procedure in relation to the allocation of bonds, including the clear delegation of responsibilities between departments / roles.

Performance Rating and Recommendations

From the material presented and analysis conducted, Tipperary County Council's functions in relation to taking-in-charge are considered to be **highly effective**. The rating above is justified on the basis of the following:

- Since the DHLGH 'National Taking In Charge Initiative' (and baseline survey of 2016, which signalled nearly 300 estates not yet taken in charge in Tipperary) it is evident that the Council has radically overhauled its systems and procedures to tackle a major backlog of estates that had not been taken-in-charge.
- With 137 estates taken in charge of the 317 estates on the Council's register, this represents a 43% inroad into the backlog of estates over the past six years with a further 45 estates in process, 15 incomplete / under construction and no applications on hand from the remaining estates.
- The Council has also reformed and enhanced its internal procedures for managing the taking-in-charge process, tracking the securities held for the satisfactory completion of developments, use of multi-disciplinary teams and new operational procedures with critical external stakeholders principally Irish Water.

Though a significant number of estates remain not taken in charge, it is clear that Tipperary County Council has made considerable progress in tackling an issue that has been highlighted at national level as a priority of action.

All the more so, given the significant level of urban development in various locations in recent years and the expectations of the citizen, who in many cases is now paying Local Property Tax and will legitimately expect that the local authority will deliver proper services in response to the proceeds it receives from LPT.

The conduct of additional reviews will enable a broader view to be taken of local authorities' engagement with the taking-in-charge issue but on the evidence of progress in Tipperary to date, the Council would be a very good case of practice for other local authorities to learn from.

In relation to the further and continued progress by the Council in its endeavours, two recommendations are made as follows.

Recommendation 13 – TIC Progress: the Council should, in the next 12 months, prepare a phased and detailed plan for the continued tackling of the remaining cohort of estates to be taken-in-charge in the county.

Recommendation 14 – Data Management: the Council should, over the next 12-24 months, build up an integrated, publicly available GIS-based management information system and database of estates setting out their status with regard to taking-in-charge.

Recommendation No.	Grading	Responsibility
13: TIC Progress	Medium	Dir Services
14: Sites & Lands GIS	Medium	Dir Services

Amenities

Overview and Context

The protection of amenities in the Council's geographical area forms part of the statutory plan-making function under the provisions of the Act. County Tipperary has a rich and diverse heritage including the Galtee and Knockmealdown mountains, the lakeland and river environments of the Shannon and Lough Derg, its river valleys combined with historic landmarks such as the Rock of Cashel, Cahir Castle, Ormond Castle and Holycross Abbey and historic towns and villages.

General Systems and Procedures

As part of its response to the request for information, the Council provided an overview of its process for designating and protecting amenities. This demonstrates a good framework of the procedures that the Council would utilise should it activate the planning functions under Part XIII 'Amenities' of the Act. This process is summarised briefly as follows:

- The Tipperary Landscape Character Assessment, prepared in 2016, provided a methodology for the classification of landscape character in the county. This classification process identified character, value and quality, landscape sensitivity and landscape capacity for change.
- A GIS-based system providing landscape character maps identifying landscape units and degrees of sensitivity.
- The process included guidelines and objectives for each landscape unit, and this includes guidance informing land-use type and development management.
- The process developed a land-use compatibility matrix between landscape character areas and land-use types.
- The process informed the designation of primary and secondary landscape areas for plan making and development management guidance.

The Council has demonstrated a good track record of collaboration and engagement as two of its towns, namely Cashel and Fethard, are members of the Irish Walled Town Network and Heritage towns and the Council has developed a process of assessments which have been carried out to ensure the settings of the towns are protected.

The Council completed an audit of the county's extensive and diverse geological heritage sites in 2019, following an objective in the county development plan to do so. The audit was supported by the Geological Survey of Ireland and it will enable the incorporation to the development plan providing for the protection of heritage and amenity value of geological sites.



Biking at Lough Derg

Tipperary County Council's work in this regard highlights good systems whereby the Council has engaged in the protection of amenities through non-statutory plans, including town enhancement plans and public realm plans.

Measures Supporting Engagement

The submitted documentation and the subsequent OPR engagement with Tipperary County Council did not provide a detailed insight into the engagement process distinctly for amenities or evidence of engagement with neighbouring authorities with regard to amenities under Part XIII of the Act.

At the same time, the public consultation and stakeholder engagement undertaken as part of the statutory plan-making process (addressed earlier in this report) would form a significant component of the engagement regarding protection of amenities.

Compliance with provisions under the Act

Part XIII of the Act sets out the statutory provisions for the protection of amenities including:

- Areas of Special Amenity;
- Landscape Conservation Areas;
- Tree Preservation Orders; and
- Public Rights of Way.

In general, the Council addresses the protection of its amenities through its statutory plan-making and development management functions.

In relation to public rights of way specifically, Part VIII of the Act provides for the creation of public rights of way (sections 206 and 207) and these provisions are supported by the mandatory objectives for statutory plan-making under section 10(2)(o) of the Act.

The OPR recently reviewed the operation and implementation of section 10(2)(o)¹⁸ across all 31 local authorities, which indicated that the extant Tipperary County Development Plans have not recorded public rights of way on a list or map. Although both plans include general landscape policies and objectives, and as referenced above the plan includes a landscape character designations. The Council did indicate, however, that it intends to address this as part of the preparation of the Tipperary County Development 2022-2028, which is ongoing.

Monitoring and Implementation

The chief executive's monitoring report, required under section 15(2) of the Act, is the vehicle for reporting on the progress achieved in implementing objectives of the county development plan and can be used to inform work programmes. Tipperary County Council acknowledged the considerable length of time since the existing county plans were adopted, and in turn and the length of time since the section 15 report was prepared. The Council indicated that they have had no access to datasets in the past which limited monitoring capacity. The Council indicated that enhancing its monitoring capacity is a priority.

¹⁸ OPR Case Study Paper CSP01 'Public Rights of Way and Local Authority Development Plan' www.opr.ie/planning-performance/

Performance Rating and Recommendations

Having regard to the available material presented to the OPR by Tipperary County Council and wider background analysis conducted by the OPR, the implementation of the Council's planning amenities functions are considered to be **effective**.

A highly effective rating would be achievable if there was a greater emphasis on monitoring and delivering amenity objectives, such as public rights of way, and general monitoring of implementation of amenity policy objectives.

Recommendation 15 – Monitoring: the Council should review its monitoring structures for the implementation of amenity policy objectives and consider the introduction of a more comprehensive monitoring regime to ensure amenity policy objectives are implemented. The section 15(2) chief executive's report is a statutory procedure to monitor implementation of statutory objectives and can be used to inform work programmes.

Recommendation 16 – Engagement with Adjoining Local Authorities: the Council is advised to undertake a review of its amenity designations within the context of Part VIII of the Act, and having regard to the requirements under section 9(4) of the Act, the Council should establish a process to coordinate the objectives for amenities under Part VIII, with those of the neighbouring counties, to ensure a coordinated Amenity Strategy across the region.

Recommendation No.	Grading	Responsibility
15: Monitoring	Low	Senior Planner
16: Engagement	Advisory	Senior Planner



Canoe Slalom Course, River Suir Blueway, Clonmel

Events and Funfairs

Overview and Context

Under Part XVI of the Act, and part 16 of the regulations, a licence is required from the local authority in respect of the holding of an outdoor event where the audience comprises of 5,000 or more people. A licence application must be submitted at least 10 weeks prior to date of event or at least 16 weeks prior to the first event in the case of an application for a number of events at a venue.

The local authority must consult with certain prescribed bodies, including the HSE and An Garda Síochána, other local authorities for the area in which the event will be held, etc. In approving the licence, conditions may be imposed for the protection of the environment, for public order, to minimise disruption to the neighbourhood and to ensure adequate traffic arrangements, etc., furthermore the licence may provide for financial contributions toward the estimated cost of measures to be taken by the Council in connection with the event.

In recent years, Tipperary County Council has processed two applications in 2018 and two in 2019, all of which were granted, and one application in 2020, which was withdrawn as a result of the Covid-19 pandemic. This is a function with limited operational demand and is managed through the planning department's development management team as part of the area based functions, rather than requiring dedicated staff.

General Systems and Procedures

The Council's submission sets out the procedural steps that are followed, in line with the requirements of the regulations, for the processing of licence applications facilitating pre-application consultation meetings and enabling submissions and observations.

Pre-application consultation is required prior to the lodging of applications, whereby a meeting is arranged which the venue owner must attend and which other State agencies (prescribed bodies) are invited to. A preliminary risk assessment (in accordance with Form No 9 of Schedule 3 of the regulations) must be submitted in advance of the meeting and must be circulated to prescribed bodies. A written record is kept of the consultation and is available for public inspection.

The Council's 'Application Form for Licence to Hold Outdoor Event' makes clear the various items of information required of an applicant, including details advertising, draft plan for management of event (incorporating emergency plan, traffic plan, safety statement, etc.) as well as details of the relevant contact within the Council.

The Council's 'Event Licence Validation Checklist' sets out (for internal use) the various steps in the process, timeframes and internal / external consultation pathways, including referral of the Event Management Plan to various internal authority departments and other State agencies. Also included is a checklist to ensure receipt of Event Management Plan, Site Emergency Plan, Traffic Management Plan, Safety Statement, Statement of Compliance, security contractor licence, etc.

Performance Rating and Recommendations

While activity with regard to the licensing of events is an area of limited activity the Council has **effective** systems and procedures in place to deliver this function. Given the limited requirement for processing of applications, the OPR has no recommendations for procedural improvement.

Part XVIII – Miscellaneous Provisions

Sections 261 and 261A: Control of Quarries

With the Council's approach to the pre-application consultation processes (a miscellaneous provision under section 247 of the Act) considered above, in the context of development management, the control of quarries, under sections 261 and 261A, is the focus of this section of the review report.

The control of quarries has been a very significant area of work for most local authorities over the last decade as a result of several landmark EU and national court decisions and fast-evolving legislation.

Section 261 and subsequently section 261A of the Act introduced additional requirements in respect of the registration and control of quarries and aggregate extraction locations that, hitherto, benefitted from being authorised by virtue of their operation prior to the introduction of planning legislation nationwide in 1964.

The legislation broadly requires local authorities to compile a register of quarries in their functional areas and to develop a comprehensive picture of the provenance and development history of such quarries against certain key legislative thresholds and criteria that variously require some quarry operators to cease or obtain relevant development consents.

In this regard, Tipperary County Council has compiled a register of almost 200 quarries under section 261 and has additionally examined over 120 quarries on foot of the section 261A tests.

The Council has also compiled a detailed database of the quarries against the various legal requirements that follow from section 261 and 261A and various section 28 guidelines issued by the Minister on the operation and application of the complex legislative code around older quarries.

In addition to the owner / developer and location data, the database includes information on:

- a) whether the quarry was inspected as part of section 261A examination and the size determined;
- b) whether the quarry is in or next to a Natura 2000 site or an archaeological monument;
- c) whether the quarry commenced prior to October 1964, including the basis for such assessment;
- d) whether the quarry obtained planning permission, including planning file references;
- e) whether the quarry was registered by the authority under section 261; and,
- f) details of statutory determinations in relation to EIA and / or AA being required and subsequent enforcement and / or substitute consent applications triggered.

The Council has provided a detailed flowchart of its systems and procedures in relation to analysing the quarries in its functional area and how it determines their planning status for various subsequent regulatory and enforcement steps which are a matter for the Council, the owner / operator or in certain circumstances An Bord Pleanála.

In this general review, the OPR has sought to establish whether the Council has a clear understanding of the legislative requirements and has put in place systems and procedures to carry out the various statutory functions for authorities prescribed under the legislation.

Clearly, control of quarries is a very large and complex area of work for local authorities in general. Additionally, as befits the very significant geographical scale of Tipperary, its long tradition in relation to the extractive industry and its strategic location adjacent to many significant markets and outlets for aggregates and construction products, it has a heavy workload in monitoring extractive industries from planning and environmental perspectives. Nevertheless, there is good evidence that the Council has in recent years expended an increased level of resources and staff time in compiling the various registers and undertaking follow-up actions.

However, given the very detailed nature of such work and the ongoing developing legal case law around the implementation of sections 261 and 261A, it goes beyond the scope of this review to look more closely at the effectiveness of the processes operated by the Council and outcomes achieved, since this would demand a broader assessment of the workings of the legislation itself.

That said, of approximately 200 quarry locations, 19 quarries were deemed pre-1964, 14 quarries were deemed to have no activity on site. Moreover, 29 quarries which were the subject of enforcement subsequently had enforcement action discontinued after subsequent investigations confirmed the sites had been restored to agricultural use and a further six cases are subject to ongoing follow-up.

Bearing the above in mind, there is evidence that quarries, while still a major issue, are being gradually brought under control, because the Council has both a generally effective understanding of the legislative and regulatory framework around the control of quarries under the Act and is putting place systems and procedures to act on them.

At the same time, as flagged in the enforcement section, targeted monitoring and prioritisation of cases that either have been subject to EIA / AA and / or where such requirements were not followed, is an area for development in the production of a new enforcement case management and back office administration system. This would be a good opportunity to achieve a highly effective rating in the future.

In addition, as the OPR review programme builds, comparative analysis across different local authorities will enable a clearer picture to emerge on the performance of local authorities in this complex, litigious and demanding area

Appendix 1: List of Recommendations

Recommendations are graded as follows, based on the level of priority that the Council should assign them:

- **Critical:** immediate implementation of the recommendation is required to resolve a critical weakness which may be impacting the delivery of statutory functions.
- **High:** the recommendation should be addressed urgently to ensure that the identified weakness does not lead to a failure to deliver on statutory requirements.
- **Medium:** the recommendation should be considered in the short-term with a view to enhancing the effectiveness of service delivery.
- **Low:** the recommendation relates to an improvement which would address a minor weakness and should be addressed over time.
- **Advisory:** the recommendation does not have a serious impact for internal systems and procedures but could have a moderate impact on operational performance. On this basis, the recommendation should be considered for implementation on a self-assessed basis.

Recommendation No.	Description	Grading	Responsibility
Forward Planning			
1: Capacity	<p>The Council should urgently commence an internal evaluation of ongoing and emerging work demands, resource capacity and skills available, both technical and administrative, across the planning department. The allocation of an appropriate level of working time to learning and development for all planning department staff should not be neglected. This evaluation should look at the wider operations, including projected workloads for the development control and enforcement teams as well as other priority deliverables over the coming years, with a view to ensuring that there is an appropriate balance of resources to capacity across the department.</p> <p>The evaluation should be conducted with a view to presenting the findings to senior management of the Council within the next six months. Where potential capacity issues / resource deficits are identified, clear proposals regarding the requirement for additional resources, or the reassignment of responsibilities, should be set out. Should this process</p>	High	Management Team

	conclude that additional staffing resources are required, the Council should endeavour to have the appropriate additional staff in place before the full impact of the local area plan-making workload materialises.		
2: Monitoring	The Council should put in place a geographical information systems (GIS) based monitoring system to track commencements of each housing development approved within the county against the objectives of its core strategy and the National Planning Framework in relation to town centre first development and brownfield regeneration targets.	Medium	Dir Services
3: Collaboration	The Council should identify the scope for appropriate joint working with adjoining local authorities in the preparation of local area plans for areas which lie within the combined functional area of the authorities concerned as provided for under section 18(2) of the Act.	Low	Dir Services
Control of Development			
4: Invalidation rates	<p>Having regard to the high level of invalidations, relative to the national averages and similar sized local authorities, the Council should put in place a targeted action plan over the next 2-3 years with a view to bringing validation rates closer in line with the national average.</p> <p>The plan should include time-bound targets for improving the quality of applications being submitted and should consider making skilled staff available at the planning counter to work proactively with applicants / agents so they know exactly the standard that has to be reached allow for efficient validation.</p> <p>The Council should continue to arrange public workshops / briefing sessions and should also consider what online resources might be effective (including a clearly visible technical validation checklist for agents and applicants preparing planning applications).</p>	High	Senior Planner

Architectural Heritage

5: Mainstreaming of practice / evaluation of resource requirements	<p>The Council should evaluate whether current practice, which is being conducted on a project delivery basis, is mainstreamed into standard operating procedure.</p> <p>The Council's evaluation should consider the possibility of having staff dedicated to delivering this service on a highly proactive basis and the potential to include specialist expertise within the planning department's staffing complement.</p>	High	Management Team
6: Public Engagement	The Council should consider preparing a dedicated architectural heritage communications strategy to encourage ongoing engagement with the public and stakeholders, including prescribed bodies, in relation to protected structures. This strategy should include enhanced publicity with regard to the incentives available to assist owners / occupiers and the presentation of case studies of successful projects.	Low	Senior Planner

Land Activation

7: Data management	The Council should over the next 12-24 months build up an integrated, publicly available GIS based management information system and database of vacant sites, derelict sites, key town principal streets occupancy record and infrastructural audit of zoned but undeveloped lands. Such analysis should be largely available by the commencement of the approaching round of local area plan preparation.	Medium	Senior Planner
--------------------	---	--------	----------------

Enforcement

8: Enforcement Team Structure	Given the volume of enforcement cases being processed / awaiting processing, the Council should consider how the capacity of the enforcement team could be strengthened, with an emphasis on assigning dedicated enforcement officers to drive the progression of the enforcement caseload without being diverted to other functions. This exercise should tie in with recommendation 1 above.	High	Dir Services
-------------------------------	--	------	--------------

9: Enforcement Monitoring Systems	The Council should implement a fit-for-purpose case management system to replace i-enforce and enable the production of comprehensive data regarding planning enforcement outcomes for inclusion in reporting, including statutorily required reporting to elected members. Special attention should be built in to such systems to ensure proper monitoring of development subject to EIA / AA in line with the requirement of the Section 29 Policy Directive. Aligned with this, the Council should also put in place a publicly available GIS-based monitoring system for enforcement.	Medium	Dir Services
10: Engagement	The Council should enhance the level of information available on its website to assist members of the public in making meaningful planning enforcement complaints. The planning enforcement page on the Council website would benefit from a review with the objective of proving a more interactive and informative facility to the public.	Low	Senior Planner

Environmental Assessment

11: Environmental Assessment Training & Guidance	<p>The Council should review whether it has adequate levels of expertise among staff in respect of environmental assessment requirements. In addition to formal training opportunities, the review should consider what internal procedures for knowledge dissemination could be put in place and should explore opportunities for networking across other similar local authorities.</p> <p>The Council is advised to have regard to the OPR practice notes 'Appropriate Assessment Screening for Development Management – Practice Note 01' and Environmental Impact Assessment Screening - Practice Note 02'.</p>	Low	Senior Planner
--	--	-----	----------------

Part XI

12: Part 8 Post-Project Review	The Council should put procedures in place in the next 12 months to ensure that all part 8 projects are subject to a post-project review following implementation. The implementation of such a procedure will provide for more effective compliance in relation to part 8 projects, making sure the agreed terms and conditions of projects are fulfilled, and thereby will enhance public confidence in the process and support for future projects.	Medium	Senior Planner
--------------------------------	--	--------	----------------

13: TIC Progress	The Council should, in the next 12 months, prepare a phased and detailed plan for the continued tackling of the remaining cohort of estates to be taken-in-charge in the county.	Medium	Dir Services
14: Sites & Lands GIS	The Council should, over the next 12-24 months, build up an integrated, publicly available GIS-based management information system and database of estates setting out their status with regard to taking-in-charge.	Medium	Dir Services
Amenities			
15: Monitoring	The Council should review its monitoring structures for the implementation of amenity policy objectives and consider the introduction of a more comprehensive monitoring regime to ensure amenity policy objectives are implemented. The section 15(2) chief executive's report is a statutory procedure to monitor implementation of statutory objectives and can be used to inform work programmes.	Low	Senior Planner
16: Engagement	The Council is advised to undertake a review of its amenity designations within the context of Part VIII of the Act, and having regard to the requirements under section 9(4) of the Act, the Council should establish a process to coordinate the objectives for amenities under Part VIII, with those of the neighbouring counties, to ensure a coordinated Amenity Strategy across the region.	Advisory	Senior Planner



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator