
THE IRISH PLANNING SYSTEM: AN OVERVIEW

INTRODUCTION: THE PRINCIPLES OF PLANNING

Formal planning is the ability to consciously control the future through current actions - by devising *plans* and implementing them. As such, it involves the design of a desired future and selecting effective ways of bringing it about. As the practice of modern spatial planning, it is concerned with creating *geographies of the future* through the conscious and deliberate shaping of the landscapes in which people will work, live and play.

Insofar as planning is concerned with the future landscape it is fundamentally about two of our most precious resources - *land and people*. The challenge for planning is to guide and manage the use of these resources as wisely as possible - to provide as much of our needs between now and the future as is reasonable without compromising the ability of those resources to continue to sustain future generations. Planning therefore attempts to achieve a balance between development and conservation. *Development* involves the creation of new living and built environments and *conservation* is about maximising the use of existing resources and infrastructures. The essence of sustainable planning is to keep the best of what we have and add to it without compromising our future.

Planning also has a strong political and management dimension (governance) because it involves strategic decision-making about using resources and directing or controlling change to achieve the desired future to which we aspire. It is through the wise and effective *management of change* that we create order and establish certainty and achieve the optimal use of resources. Planning is expected to shape changes in co-ordinated and constructive ways that avoid ad-hoc confusion, policy contradictions and wasteful overlaps. Modern societies do this by establishing formal procedures for spatial planning and incorporating them into government activities. The spatial planning process in Ireland is an institutionalised procedure (a systematic legal activity) for shaping the environment of Ireland's communities. Plans are made and implemented through a sophisticated and democratic governance process (of policy-formulation and decision-making) which involves politicians, officials, and the wider community or public.

The issue of *governance* in relation to plans raises the question of who actually makes a plan and implements it. The planning about which we are speaking here is public planning; it is about plans made by, and on behalf of, the public. These plans are meant to enshrine the wishes of the public about the future environment in which they will live. As such, the plans represent the democratically agreed framework or policy context for all subsequent decisions and actions required to achieve the desired outcome - namely, the desired agreed future society and environment selected by the community.

This process of planning or shaping the environment applies at many *scales* from the local plans for local communities to plans for whole towns and their wider regions, up to the level of the whole country. Integrated 'hierarchical' (or vertical) planning is said to exist when plans for the different scales are clearly connected in a mutually reinforcing or joined-up way. Integrated horizontal planning occurs when plans at any one scale are consistent.

THE PHYSICAL PLANNING SYSTEM IN IRELAND

Planning Legislation

Ireland's planning system was first introduced on the 1 October 1964, when the *Local Government (Planning and Development) Act, 1963* came into effect. This Act provided for the orderly planning and development of the country on a local government basis with local authorities also designated as *planning authorities*. It was a system heavily based on the English planning system of that time and with an onus on 'trend' planning.

The large body of planning legislation and regulations in the years since then, consolidated and updated in the *Planning and Development Act of 2000*, reflects the expansion of the statutory development control system to meet the demands arising from economic growth, rising public concern in the area of environmental control, and a desire, on the part of the public, for a statutory and independent planning appeals system. The Act also reflects a growing European dimension arising from Ireland's membership of the European Union. The core principles of the review which gave rise to the new legislation were to ensure that the planning system of the twenty first century would: (a) be strategic in approach, (b) have an ethos of sustainable development, and (c) deliver a performance of the highest quality. As part of the new legislation, a clear hierarchical planning system was introduced within the context of a national spatial strategy (NSS), with regional planning and its associated guidelines being put on a statutory footing for the first time.

Following on from the publication of the *European Strategic Development Perspective (ESDP)* in 1999, the DoEHLG published the Irish *National Spatial Strategy (NSS)* in November 2002. The NSS provides an overall framework for planning in Ireland. Plans at regional and local level (i.e. Development Plans, see below) must have regard to the NSS. The hierarchy of plans for Ireland is summarised in Figure 1.

Institutional Roles and Responsibilities

At a national level two main organisations have responsibility for planning: Department for the Environment, Heritage and Local Government (DoEHLG) and An Bord Pleanála (Planning Appeals Board). As the main overseer of the planning system in Ireland, the DoEHLG is responsible for the framing of planning legislation as well as the preparation and issue of policy guidance. The DoEHLG is, therefore, responsible for devising a national planning framework and for the issuing, as required, of guidance documents in respect of national planning issues such as rural housing, wind energy, retailing, etc.

Ireland is unique among European countries in that it has an independent third party planning appeals system which is operated by *An Bord Pleanála*, (the Planning Appeals Board). The appeals board provides an arbitration forum in which any decision made by a planning authority on a planning application can be reviewed at the request of the applicant or another interested party. Another national organisation, the Environmental Protection Agency (EPA), was established in 1993, thereby restricting planning consideration to essentially land-use functions.

In addition the *regional authorities*, of which there are eight, have responsibility for drawing up and implementing Regional Planning Guidelines (RPGs) to support strategies for regional development.

The **implementation** of the physical planning system in Ireland is the responsibility of the *88 local planning authorities*: this can be broken down into 29 County Councils, 5 City Councils and 49 Town

Figure 1: Hierarchy of Plans



Councils. At this level, the planning system primarily consists of the preparation of a Development Plan, Development Control (i.e. the planning application process) and Enforcement.

Operation of the Planning System

The system as applied in Ireland has three main functions:

- Making development plans and local plans
- The need to implement the plan through planning permission (unless exempted)
- Planning enforcement.

At this stage it is worth pointing out that the basis of the governance system in Ireland as it applies to local government is that the functions of a local authority (i.e. the planning authority) are separated into reserved (political policy) and executive (management) functions, the former performed by the elected representatives and the latter by the City or County Manager. Planning is a significant function of the local authority (see Table 1). The politicians have priority when it comes to making

the plan but the manager and the appointed staff take precedence on a day to day basis. Thus, day-to-day planning decisions on individual planning applications are an executive function (i.e. the responsibility of the manager) while the adoption of Development Plans is a reserved function (i.e. the responsibility of local elected members).

Table 1: Roles of Planning Authority and Public in Irish Planning

Aspect	Planning Authority - (Primary Role)	Role of Public
<i>Development Plan</i>	Politicians (Reserved function)	Consultation - public must be consulted before the plan is adopted
<i>Development Control</i> (planning application / permission process)	Manager (Executive function)	Objections (and appeals to An Bord Pleanála) - individuals are entitled to comment on / disagree with development proposals at planning application stage
<i>Enforcement</i>	Manager (Executive function)	Objections - individuals can notify the local authority about, or take action through the courts against, unauthorised development

One of the most important reserved functions is the power to adopt a development plan or materially contravene it. This function is ‘reserved’ to the politicians who have been elected to the local authority by the public. The development control and enforcement functions are discharged by the executive (i.e. the manager and staff of the planning authority). In other words the power in relation to these two or these different elements of planning is split between the policy making or strategic element of planning (i.e. the reserved of making the development plan) and the implementation or execution of the plan on a day to day basis through the development control system and enforcement procedures.

Development Plans and Local Plans

The first function is the preparation and adoption of a Development Plan to represent the wishes of the people about the future geography of the area over a five-year time horizon. The Development Plan constitutes a statement of aims and intentions in written and map form.

The *Development Plan* is the main instrument for regulation and control of development at the county level. Each planning authority is required to publish notice of its intention to review its plan, not later

than 4 years after the making of a development plan. A new plan must be made every 6 years (i.e. 2 years after the notice of the intention to review the plan has been published). The plan states the authority's policies for land use and for development control and promotion in its area. The authority, in exercising control, must consider the provisions of the plan, and try to secure its objectives.

In general, the plan shows the authority's objectives for the sole or primary use of particular areas (e.g. residential, commercial, industrial, agricultural), for road improvements, for development and renewal of obsolete areas, and for preserving, improving and extending amenities. Public participation in making the development plan is important. The public can become involved in the making of the plan at the initial stage - when the planning authority publishes its intention to review the plan. The public can also become involved at the draft plan stage and, if applicable, at the amended draft plan stage. At all these stages, the public can make submissions or observations, within specified time periods, on what is being proposed by the planning authority.

Notice of the making of the draft plan is published and the draft plan goes on public display for at least 10 weeks, during which time the public may make submissions or observations on its content. Any submissions or observations received within the specified period must be considered before the Plan is adopted by the elected members of the local authority.

Local Area Plans, the preparation of which has only become a statutory requirement since the new planning legislation of 2000, are prepared for specific towns and areas within the remit of the planning authority. A consultative process is also followed through in the preparation of such plans. In line with the hierarchy of plans principle, the contents of the Local Area Plan must be in line with the policies contained in the city/county Development Plan. In this regard, the 2000 Act states that "where any provision of a local area plan conflicts with the provisions of the development plan... the provisions of the local area plan shall cease to have any effect".

Strategic Environmental Assessments (SEA) is a recent obligation that has been attached to the plan making system in Ireland. SEA involves assessment of the likely significant environmental effects of *plans and programmes* prior to their adoption. The SEA Directive (2001/42/EC) took effect in Ireland on 21 July 2004. It provides for strategic environmental consideration at an early stage in the decision making process, and is designed to complement the environmental impact assessment (EIA) process which is project based. The Directive applies across a wide range of sectors viz. agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism and land use planning. The requirement to carry out SEA of plans/programmes in the sectors mentioned above arises where they "set the framework for future development consent of projects" which are listed in the EIA Directive (85/337/EEC, as amended by Directive 97/11/EC). SEA is also necessary where plans/programmes are likely to have a significant effect on a site governed by the Habitats Directive (92/43/EEC). Responsibility for implementation of the Directive within each sector rests primarily with the relevant Government Department.

Development Control

The second major function relates to the need to obtain planning permission before any specific development can proceed. All development, unless specifically exempted, needs planning permission. This is called Development Control and requires all development proposals (i.e. proposals to build on or change the use of land) be checked against the policies and objectives specified in the development plan to ensure that the proposal conforms to the aims and intentions set out in the plan. In summary, development plans are implemented through the development control system. The development plan is applied by vetting and checking all development proposals (planning applications) to ensure that they conform to and are consistent with the aims and objectives

contained in the development plan. Those proposals which are in agreement with the development plan are those which have granted planning permission. Those which, are not in accordance with the plan are refused consent.

In general, authorities must decide planning applications within 8 weeks of the date of receipt of the application. The applicant or any person who made a valid submission in writing, in relation to the planning application, to the planning authority can appeal to An Bord Pleanála, within 4 weeks of the decision.

In deciding applications, authorities are restricted to considering the proper planning and sustainable development of the area concerned, including the preservation and improvement of amenities, the development plan, and any valid, written submissions or observations made on the proposed development. Where permission is refused, or granted with conditions, the authority must give reasons for the decision. A planning permission normally lasts for five years, but may be extended in certain cases.

As noted above, appeals must be made within 4 weeks of the planning decision. In an appeal, the planning application is considered anew by An Bord Pleanála, who examine all relevant issues independently. The Board must, among other things, consider the proper planning and development of the planning authority's area and any submissions or observations received.

Certain developments must be assessed for likely environmental effects (commonly known as *environmental impact assessment (EIA)*) before planning permission can be granted. When submitting a planning application for such a development, the applicant must also submit an Environmental Impact Statement (EIS).

In the case of development, where the planning authority considers that it is likely to have significant environmental effects, but which is under the relevant EIA threshold (i.e. not required under legislation to submit an EIS), planning authorities can, under Article 103 of the *2001 Planning Regulations*, request an EIS.

In addition to planning permission, certain activities may also require an *integrated pollution control (IPC)* licence or a waste licence from the Environmental Protection Agency. Other consent requirements may also arise in the context of mining activities or development on the foreshore.

Enforcement

The third major function of the planning system is Enforcement. In effect this is the policing aspect of planning; planning enforcement involves checking that all development actions, whether they be building works or changes of activity (called land use changes by planners - e. g. changing the use of a building from a grocery shop to a bank) have obtained planning permission and are therefore legal or authorised. The intention of this policing aspect of planning is to ensure that the development plan in particular, and the planning process generally, is taken seriously and properly observed by developers and the public. Enforcement of planning control is the responsibility of the planning authority. Where development takes place without permission, or where it does not comply with conditions of a permission, the authority may take enforcement action. Under the *Planning and Development Act 2000*, planning authorities are obliged to follow up genuine complaints about breaches of planning control within a given timeframe, are entitled to retain fines imposed by Courts for planning offences to help finance more active planning control and can refuse to grant planning permission, subject to the consent of the High Court, to any developer who has seriously failed to comply with a previous permission. These provisions came into force on 11 March 2002. The authority must issue a warning notice, then an enforcement notice and possibly court action. Also

the authority, or any individual or group, may seek a High or Circuit Court order against a developer, stopping an unauthorised development or use.

LOCAL GOVERNMENT STRUCTURES¹

The local government system in Ireland includes the local authorities and the regional authorities. The elected local authorities are the county councils (29), the five city councils (representing the larger urban centres), and the borough and town councils (80). The members of these authorities are elected by a system of proportional representation, with elections taking place every five years. The county councils and city councils are the principal agents of public administration with a lesser range of functions coming within the ambit of the other bodies.

Compared to other European states, the Irish local government system is relatively weak with a more limited range of functions and powers. Local authorities have no role in policing, public transport or personal social services. Powers in respect of education, health and agriculture are very limited. The only social function is in respect of housing. The absence of financial autonomy within local authorities - almost all of their funding comes from central government - severely curtails their scope for independent action. Traditionally, local government in Ireland has been seen as a deliverer of local services, its scope defined by the centre. Local authorities were also severely constrained by legislation in contrast with the norm on the continent where the doctrine of 'general competence' holds greater sway. Instead of expanding the role of local authorities, as new services were demanded of central government, the trend has inexorably been to create new single function agencies at national or regional levels, such as the Environmental Protection Agency (EPA) and the National Roads Authority (NRA).

CITIZEN PARTICIPATION AND LOCAL GOVERNANCE

Structures for participation in local government in Ireland have undergone change over recent years with the establishment of Strategic Policy Committees (SPCs) and County Development Boards (CDBs).

The emergence of area-based local development structures outside of the local authority system has taken place in the context of a growing realisation globally, nationally and locally that to be sustainable, development should bring about not only an improvement in social and physical conditions, but must also contribute to an improvement in the capacity of people and communities to control and sustain those conditions.

The limitations of both central and local government systems together with the perceived failure of the statutory agencies to address persistent problems of urban unemployment and disadvantage and of rural deprivation, led to the first pilot area-based local development initiatives in the late 1980s. The late 1980s saw the development of the social partnership model at national level and its success was one of the reasons for the extension of the partnership model to the local level in the 1990s. The brief of the early partnership companies was to work with the long-term unemployed and socially excluded, i.e. those most marginalised from economic and social life. This was subsequently widened to provide partnerships with a more pro-active community development remit.

¹ See Local Government, Local Development and Citizen Participation, ULB, 2002

Local government in Ireland has developed largely from a judicial system introduced under a colonial regime and is historically more removed from its community base than many continental European systems of local government. The local government system is inhibited by a lack of resources and an over-dependence on central government decisions made annually as part of the budgetary process, and by a lack of coherence and co-ordination in the delivery of services.

Traditionally, citizen participation in local government has been through the electoral system, with councillors representing each local electoral area. The elected members receive their mandate to represent citizens through the democratic process of local elections held every five years. Despite the democratic process inherent in the system, local communities have felt increasingly alienated from local government. This alienation is attributed to:

- their frustration with the limited range of activities which fall within the remit of the local authority,
- elected members being perceived as representing the views of only some sections of the community, and
- the perceived failure of local authorities to be pro-active in responding to new needs and demands.

In response to these factors, and also because of the recognition that the introduction of social partnership in Ireland at national level has provided the basis for social and economic progress, proposals for enhanced participative democracy at local level were set out in a 1997 *Programme for Better Local Government* (Department of Environment, 1997). Measures were proposed which would recognise the legitimacy of local government as a democratic institution, enhance the electoral mandate within local government and broaden involvement in local government.²

The recommendations of the Task Force led to the establishment of County Development Boards in 2000 as part of the integration process between local government and local development at county level. The primary functions of the CDBs is the putting in place of a comprehensive strategy for economic, social and cultural development within the county and to oversee its implementation.

The CDBs have a particular role in ensuring co-ordination of local service delivery and developing a vision at local level to encompass various local and sectoral plans; provide the focus for co-operation on a continuing basis at county level in the work of the various agencies, promote co-ordination and by bringing together the various interests, seek to maximise the effectiveness of spending on programmes and projects at local level included in the *National Development Plan* (NDP).

In terms of citizen participation the most important sectors represented on the SPCs and CDBs are the public representatives and the representatives of the community and voluntary sector in the county. This process was the first time that the community and voluntary sector were, as a matter of government policy, being invited as full partners to participate in strategic planning at county level. It was also a very significant step in enhancing citizen participation and, hopefully, supporting representative democracy with participative democracy.

² See Local Government, Local Development and Citizen Participation, ULB, 2002