

# IRELAND – COUNTRY PROFILE – SPATIAL PLANNING – REPORT 3: Supplemental Information

## **Constitutional framework, planning system and documents, non-statutory instruments, EU influences, issues/challenges and key policy discourses**

### **Constitutional framework (property rights)**

The ownership of private property, albeit a right guaranteed by the Irish constitution *Bunreacht na Éireann* (hereafter referred to as the Constitution), is not an absolute right. Article 43 of the Constitution establishes the right to the ownership of private property and protects the institution of property ownership, while Article 40(3) of the Constitution protects the citizen's personal property. Article 43(2) of the Constitution recognises that social justice may require the delimitation of these rights. In practice the legislature has a wide discretionary power to restrict property owners in the use of their private property and frequently exercises that discretion in the interests of the common good. In 1964, the introduction of the regulatory planning system placed significant limitation on the exercise of the rights of private property and subsequent legislation has broadened that limitation. For example, in the Planning and Development Act 2000, the legislature requires the developers of residential land to cede a portion of the land for social and affordable housing at use value rather than market value in order to provide for integrated housing delivery, thus mandating a combination of social, affordable and market housing.

### **County and city development plans**

The county and city development plan is the basic planning document for local authorities (Grist, 2012). The development plan sets out the overall strategy and specific objectives for the proper planning and sustainable development of the entire functional area of the planning authority. It is the duty of the local authority to be pro-active in securing the objectives of the development plan (P&D 2000 (as amended), Section 15). The local authority is mandated to prepare a development plan every six years (P&D 2000 (as amended), Section 9). The review of the development plan must commence four years after the adoption of the previous plan. The plan includes a number of mandatory and discretionary objectives (P&D 2000 (as amended), Section 10(2) & (3)).

The development plan contains a 'core strategy'. This strategy provides for a settlement hierarchy, which ranks all towns and cities with a population greater than 1,500 and provides for their potential economic and social development (P&D Act 2000 (as amended), Section 10(2) (f) & (2C)). The 'core strategy' ensures the transparent and effective incorporation of the settlement and population target objectives of the higher order plans into the development plan (P&D 2000 Act (as amended), Section 10(1A) and Section 12(18)). It provides an evidential base for the zoning of land. The quantity of land to be zoned must be aligned with national and regional population targets provided for in the Implementation Roadmap for the National Planning Framework July 2018 (Housing Supply Target Methodology for Development Planning 2020, Section 2.12). These population targets, with a time horizon to 2031, comprise projected population ranges within minimum and maximum parameters. The Development Plan must include a housing strategy which provides for integrated housing delivery including social, affordable and market housing.

### **Local area plans (LAPs)**

Local area plans (LAPs) were introduced within the plan hierarchy by the Planning and Development Act 2000. A local area plan (LAP) may be prepared for any area which the planning authority considers suitable and in particular those areas likely to experience large-scale development that require economic, physical and social renewal (P&D 2000 (as amended), Section 19(1)(a)). A LAP is mandatory for towns with a population in excess of 5,000 other than a town designated as a suburb or an environ of a larger settlement (P&D Act 2000 (as amended) Section 19(1)).

## IRELAND – COUNTRY PROFILE – SPATIAL PLANNING – REPORT 3: Supplemental Information

At its discretion, the local authority may create an LAP below this threshold for smaller settlements and/or new development areas. The LAP sets out an overall strategy for the proper planning and sustainable development for a defined area. Local authorities can stipulate in their development plans that specified development in a particular area will be subject to the creation of an LAP (P&D (as amended), Section 10(7)). The LAP may include zoning objectives and other objectives including phased development requirements, community facilities and amenities and standards for design of development (<https://www.gov.ie/en/publication/8f54f-local-area-plans-guidelines-for-planning-authorities-june-2013/>).

The LAP must contain a statement that clearly shows compliance with the settlement hierarchy of the development plan. The LAP must be reviewed six years after it was created (P&D 2000 (as amended), Section 19(c)). The plan may be extended by a resolution of the planning authority to defer commencement of the review for an additional five years conditional on extension being not more than five years after the plan was created (P&D 2000 (as amended), Section 19(d) & (e)).

### **Strategic Development Zone (SDZ)**

A strategic development zone (SDZ) is designated by the government for the purposes of strategic residential and/or non-residential development. The government has to be of the opinion that the development is of economic or social benefit to the state (P&D Act 2000 (as amended), Section 166). A development agency is established to prepare a draft planning scheme, which is submitted to the local authority for approval. The decision of the local authority can be appealed to *An Bord Pleanála*. The planning scheme, when adopted, will form part of the development plan. The planning scheme will set out the type and extent of any development which is to be permitted, including overall design, maximum building heights and external finishes.

Initially, the 'fast track' planning process was introduced in the Dublin Docklands area of Dublin City where planning schemes were prepared to coordinate and provide for integrated development. If a subsequent development proposal was fully aligned with the statutory planning scheme, the applicant received development consent with no right of appeal to *An Bord Pleanála*. Following the success of the use of the planning scheme concept in the Dublin Docklands, the Planning and Development Act 2000 provided for SDZs as a streamlined planning process where the planning scheme model of front-loaded public participation, with no subsequent appeal at the planning application stage, was adopted nationally.

### **Use of 'soft planning' such as informal (non-statutory) planning, planning strategies, etc.**

#### Urban integrated planning/renewal

One of the most significant planning actions of the past decades was urban regeneration. Irish cities from the mid-1980's experimented with area-based projects and new development implementation arrangements, including development agencies separate from the local authority to attract investment in new service-based industries, principally to areas that required urban renewal. The case study of Dublin illustrates the evolution of a vision-led, entrepreneurial model designed to facilitate urban renaissance and enhance the international competitiveness of the city (Bartley, 2007). The Urban Renewal Act 1986 provided for the establishment of property-led development corporations. Consequently, the Custom House Docks Development Authority (CHDDA) was created to regenerate the under-utilised north docklands in Dublin city centre. CHDDA prepared a planning scheme (urban design master plan) for the redevelopment of the area and entered into partnership with private companies to achieve its renewal objectives supported by tax incentives.

In 1996, review by central government highlighted democratic and community deficits in existing urban renewal implementation. In response, an integrated area plan approach with a focus on

## IRELAND – COUNTRY PROFILE – SPATIAL PLANNING – REPORT 3: Supplemental Information

'social partnership' was introduced and used throughout the country from 1998 (Bartley, 2007). In 1997, the Dublin Docklands Development Authority (DDDA) (1997–2016) replaced the CHDDA, providing for holistic economic, social and physical area-based regeneration informed by the local community through the local Docklands Council. In the succeeding years, the eastern quadrant of Dublin City centre was physically transformed through major phases of mixed-use property development integrated with investment in social regeneration and civic infrastructure.

In tandem elsewhere in Dublin and nationally, regeneration zones were designated by central government where development potential and social needs were demonstrated. Integrated area plans were prepared by local authorities or other lead agencies for the regeneration of these areas aligned with creative visions supported by tax incentives.

### Community vision

More recently, there have been a number of examples of non-statutory, community level, area-based urban regeneration plans that agree on a 'shared vision' of place. The objective is to create a reimagined future principally through a consolidated urban form and targeted interventions to enhance liveability. The plan vision is underpinned by a coherent urban design strategy for *inter alia* public space, infill sites, brownfield lands and under-utilised buildings. The National Planning Framework (NPF) identified Portlaoise, County Laois (<https://www.gov.ie/en/publication/8f54f-local-area-plans-guidelines-for-planning-authorities-june-2013/>) as a demonstration project in community-led urban regeneration non-statutory plan making. The Westgate Vision in Drogheda, County Louth (<https://www.louthcoco.ie/en/services/planning/westgate-vision-a-townscape-recovery-guide-june-2018.pdf>), and Boyle 2040, County Roscommon (<http://www.roscommoncoco.ie/en/Services/Planning/Roscommon-County-Council-Planning-Publications/Roscommon-County-Council-Planning-Publications/Non-Statutory-Plans/Our-Towns/Boyle-2040.pdf>) are other examples of 'shared vision' urban design led, non-statutory urban regeneration plans.

The plan making process is led by the local authority. It acknowledges the requirement for a holistic approach to plan making, which integrates physical, economic and social considerations. It is a participative process engaging the community and local business in creating the 'shared vision'. The plan targets a specific area, which may be the entire built area of the designated town or a part of the built area that requires urban regeneration. The implementation of plan objectives is over a defined longer-term time frame. The plan provides a framework for private and public sector investment with the support of a dedicated implementation team.

In part, plan implementation will be achieved in public realm improvement projects and in the assessment of developer-led proposals guided by the urban design strategy. In the instance of Boyle 2040, 2040 and Beyond: a Vision for Portlaoise and Westgate Vision, the plans have secured funding from either the Urban Regeneration and Development Fund (URDF) or the Rural Regeneration Fund (RRDF) for plan elaboration and infrastructure support (<https://www.gov.ie/en/publication/56ef8-urban-regeneration-and-development-fund-urdf/>).

### Strategic Housing Development (SHD)

The strategic housing development (SHD) initiative was introduced in 2017 (<http://www.pleanala.ie/shd/general/overview/Strategic%20Housing%20Developments%20-%20Overview.pdf>). The SHD process is a temporary measure justified by the ongoing housing crisis to expedite all proposed residential developments of 100 units or more or student accommodation comprising 200 or more bed spaces with a cap of 4,500 square meters on other use-limiting, mixed-use development (Planning and Development (Housing) and Residential Tenancies Act 2016). It is given a 'fast track' moniker. However, it is not plan led; rather it is a developer led process applicable to residential or mixed-use zoned lands, which guillotines third party rights. SHD excludes any appeal of the first instance decision, as *An Bord Pleanála*, the planning review board, is the first-instance adjudicator. The SHD process standardises planning

# IRELAND – COUNTRY PROFILE – SPATIAL PLANNING – REPORT 3: Supplemental Information

assessment based on a suite of ministerial guidance documents that in instances can set aside the policy and objectives of the local level land use plans. In the absence of any planning review, there has been a significant increase in applications to the High Court for judicial reviews of SHD decisions, with approximately 10% of all grants subject to judicial review proceedings.

## Influence of EU legislation and policies

Ireland was a net recipient of European structural and regional development funds from the 1970s until 2014/2015. From the 1990s onwards, European funding and programmes have played a significant role in ensuring that long-term infrastructure and development planning was carried out at a strategic level (Williams & Nedovic-Budic, 2020). The impact of EU funding and support can be seen in the major investment and expansion undertaken in motorway networks, airports and the upgrading of Tier 1 sea ports directed through cohesion policy in the form of loans from the European Investment Bank and the Connecting Europe Facility (CEF), which is a key EU funding instrument promoting economic growth, jobs and competitiveness through targeted infrastructure investment. Cohesion policy and the European Spatial Development Perspective strongly influenced Irish spatial planning and territorial governance during the period 2000–2016. Williams and Varghese (2018) found that the changing priorities of regional investment in Ireland matched the thematic objectives of cohesion policy for each period; for example between 2007–2013 the themes were innovation and the knowledge economy, the environment and accessibility and support for enterprises. However, implementation could be problematic or delayed as the economic crisis in Ireland over that period stymied the priority of ‘sustainable urban development’ due to a lack of financing.

These investment funds have had a transformative impact, in particular on physical infrastructure and education. The national development plans (1988–2011), the name given to successive Irish government strategic infrastructure investment programmes from the 1980s, were in part EU funded. The National Development Plans (2000–2006, 2007–2013), which included national road networks and regeneration programmes, were partly funded by cohesion funds. In addition, European structural funds have contributed to projects such as Dublin’s light railway system, bus corridors, the reuse of buildings for public use and broadband technology. Many local development programmes and projects continue to be funded by PEACE, LEADER and INTERREG, facilitating diverse rural communities to develop and implement projects suited to their needs. It is in national and regional strategic planning that the EU influence is pronounced; the first planning strategy on a regional basis, the Strategic Planning Guidelines, dates from 1999. The planning system was reformed by the Planning and Development Act in 2000. Moreover, sustainable development has played a more important part in Irish public policies over these years. The National Spatial Strategy (NSS, 2002–2020) adopted and adapted concepts from the European Spatial Development Perspective such as ‘balanced regional development’, ‘gateways’ and ‘hubs’. This developed from the (regional) Strategic Planning Guidelines. This developed the role of spatial coordination to include concepts such as balanced spatial development, urban/rural relationships, polycentric development, and spatial level coordination of public policy. (NSS was replaced in 2018 by the National Planning Framework, NPF.)

The influence of the EU was also stated in Williams and Nedovic-Budic (2016), who noted the wide range of EU legislation in force concerning the environment. EU Directives are laws that set goals for member states to implement. Member states can introduce national legislation which transposes directives into national law. Directives normally have deadlines for countries to adopt them into national law and the main areas covered include:

- Nature and biodiversity
- Waste management
- Air, water and noise pollution
- Environmental impact assessment
- Genetically modified organisms

# IRELAND – COUNTRY PROFILE – SPATIAL PLANNING – REPORT 3: Supplemental Information

([https://www.citizensinformation.ie/en/environment/environmental\\_law/eu\\_environmental\\_law.html](https://www.citizensinformation.ie/en/environment/environmental_law/eu_environmental_law.html))

EU legislation to protect the environment is technical in nature and sets out detailed technical and scientific standards. The legislation usually requires member states to provide information to the European Commission about how they are implementing the rules and their effectiveness. In addition, there are several international conventions on environmental protection. In general, these are ratified by the EU and then implemented through EU legislation. In planning terms, the environmental assessments for projects and plans are especially important, whereby the environmental impact of certain projects, plans and programmes must be assessed before they can go ahead. This assessment is carried out using either an Environmental Impact Assessment (EIA) or a Strategic Environmental Assessment (SEA). In addition there is a wide range of EU legislation dealing with waste management regulations and legislation.

## **The main spatial planning challenges and issues on the spatial planning agenda; key policy debates**

### Challenges and issues

It is recognised that the development prospects of regions are heavily dependent on their urban structure (McCafferty, 2007). Historically, economic and population growth in Ireland has been imbalanced between regions and nationally in the context of a weak urban system with an absence of industrialisation in the 19<sup>th</sup> century outside the north-east of the island. In 1968, the Buchanan Report concluded that greater employment would result from economic concentration within nine primary growth centres and four secondary centres (O’Leary, 2014). However, this spatial policy was not adopted by the government. In the 1990s, as Ireland reached EU economic convergence, the regional disparity between Dublin and the rest of the country increased.

In consequence, the Planning and Development Act 2000 provided for a national spatial strategy to guide population and employment growth within a hierarchy of guidelines and plans at national, regional and local level. However, the spatial planning hierarchy as provided for by the National Spatial Strategy (NSS) 2002 did not perform effectively and population growth was not located as envisaged in the designated urban ‘gateways’ and ‘hubs’. Subsequent planning reform has aligned national, regional and local statutory plans including the introduction of ‘core strategies’ into county and city development to restrict land use zonings and has established the Office of the Planning Regulator (OPR) to provide an oversight role to ensure the consistency of national and regional strategic objectives with local land use planning.

In 2018, regional parity in projected population growth (one million additional people to 2040) was the primary objective of the National Planning Framework (NPF). The NPF rejected the ‘current trend’ scenario which projected 58.5% of population growth in the EMRA area to 2040 as unsustainable in favour of the regional parity 50:50 city scenario (Morgenroth 2018). The 50:50 city scenario targets 50% of growth in the southern regional assembly (SRA) area and the northern and western regional assembly (NWRA) area combined. However, based on current trends and medium-term economic projections, a ‘business as usual’ scenario appears likely, which would continue the established dynamic of economic growth and population concentration in Dublin and the surrounding area. In this regard a ‘baseline scenario’ projects a population increase of 926,000 people between 2016–2040 nationally with 55.6% of this population growth in the eastern and midland regional assembly (EMRA) area (Bergin & Rodriguez, 2020). Dublin is expected to have the highest population share but the mid-east sub-region would have the highest population growth. This would question the efficacy of the National Planning Framework (NPF) strategic objective to achieved regional parity in projected growth to 2040 between EMRA and the other two regions combined (NWRA & SRA).

Furthermore, the geographic location of large scale residential development to date as evidenced by Strategic Housing Development (SHD) applications in 2019 are overwhelmingly within the

# IRELAND – COUNTRY PROFILE – SPATIAL PLANNING – REPORT 3: Supplemental Information

EMRA geographic area (64) with the remaining applications (18) in the geographic areas of the other two regional assembly areas (NWRA & SRA) (An Bord Pleanála Annual Report 2019 (July 2020)) ([http://www.pleanala.ie/publications/2020/AR2019\\_EN.pdf](http://www.pleanala.ie/publications/2020/AR2019_EN.pdf)).

## Key policy discourses

The policy space is dominated by the tendency toward the centralisation of the planning function and the retreat of the principal of subsidiarity. The strength of centrifugal forces is evidenced. This is transparent in the role of ministerial guidance and mandatory SPPRs (specific planning policy requirements) issued by the Department of Housing, Local Government and Heritage (DHLGH) under Section 28 of the 'Principal Act', which in certain instances can set aside the democratically agreed policies and objectives of the statutory county and city development plans. It may be argued that the augmentation of the functions of *An Bord Pleanála* is both deliberative and strategic in nature, increasing the jurisdiction and expertise of the national planning authority while at the same time reducing both the scope of powers and resources of the local government planning function.

The Irish planning system is in continuous evolution and as such it is a dynamic system, which is open to innovation and flexibility. It may be observed that the development cycle in Ireland is erratic, moving from boom to bust in the last two decades, which is partly explained by the open, globalised nature of the Irish economy. It may also be observed that innovation in the planning system is tempted to follow the demands of that cycle, both at the peak of the cycle and in inverse at the bottom of the cycle, in part to expedite a response and in part to reinforce administrative control from the centre, thus rolling back the 'principal of subsidiarity'.

The example of 'core strategies' is cited as a bottom level response to the over-zoning of land for development before the global financial crisis in 2008. In the context of the subsequent property crash an evidential basis for land zoning aligned with national and regional population targets would restrict the discretion of planning authorities and their locally elected members (councillors) to zoning land for development in the future while at the same time centralising control of the quantity and location of zoned land. Alternatively, the example of strategic housing development (SHD) is cited as a peak level response to the acute housing shortage and perceived delays in the conventional development management system. SHD is a temporary planning instrument introduced in 2017, which to date has been extended until 2022. The SHD process guillotines third-party rights and centralises the adjudication of all large scale (100 units and greater) residential developments in *An Bord Pleanála*, which is empowered by ministerial directive to set aside the policies and objectives of the statutory development plans and local area plans adopted by the local elected representatives.

# IRELAND – COUNTRY PROFILE – SPATIAL PLANNING – REPORT 3: Supplemental Information

## References:

An Bord Pleanála, (3 July 2017)

(<http://www.pleanala.ie/shd/applications/SHD%20App%20Section%204%20Guidance%20for%20Applicants%20EN.pdf>) (accessed 21 February 2021).

An Bord Pleanála, (2017)

(<http://www.pleanala.ie/shd/general/overview/Strategic%20Housing%20Developments%20-%20Overview.pdf>) (accessed 21 February 2021).

An Bord Pleanála, (July 2020) *Annual Report 2019*: Available at

[https://www.pleanala.ie/getmedia/5481d7fa-ee91-4d5e-bd67-2a9f8abc413c/annualreport2019\\_EN.pdf?ext=.pdf](https://www.pleanala.ie/getmedia/5481d7fa-ee91-4d5e-bd67-2a9f8abc413c/annualreport2019_EN.pdf?ext=.pdf) () (accessed 4 February 2021).

Citizens Information (24 May 2016) Available at (Nature and biodiversity)

[https://www.citizensinformation.ie/en/environment/pets\\_and\\_wildlife/protection\\_of\\_nature\\_and\\_biodiversity.html#](https://www.citizensinformation.ie/en/environment/pets_and_wildlife/protection_of_nature_and_biodiversity.html#) (accessed 9 February 2021).

Citizens Information (28 July 2016) Available at (Waste management regulations and legislation)

[https://www.citizensinformation.ie/en/environment/waste\\_and\\_recycling/waste\\_management.html](https://www.citizensinformation.ie/en/environment/waste_and_recycling/waste_management.html) (accessed 9 February 2021).

Citizens Information (9 August 2016) Available at

[https://www.citizensinformation.ie/en/environment/environmental\\_law/eu\\_environmental\\_law.html](https://www.citizensinformation.ie/en/environment/environmental_law/eu_environmental_law.html) (accessed 9 February 2021).

Citizens Information (26 November 2020) Available at

[https://www.citizensinformation.ie/en/environment/environmental\\_protection/environmental\\_impact\\_assessment.html](https://www.citizensinformation.ie/en/environment/environmental_protection/environmental_impact_assessment.html) (accessed 9 February 2021).

Department of Environment, Community and Local Government [DECLG] (2013) *Local Area Plan - Guidelines for Planning Authorities* (June 2013). Available at

<https://www.gov.ie/en/publication/8f54f-local-area-plans-guidelines-for-planning-authorities-june-2013/> (accessed 29 January 2021).

Department of Housing, Local Government and Heritage [DHLGH] (December 2020) *Urban*

*Regeneration and Development Fund (URDF)*: (<https://www.gov.ie/en/publication/56ef8-urban-regeneration-and-development-fund-urdf/>) (accessed 11 January 2021).

Department of Housing, Local Government and Heritage [DHLGH], (December 2020), *Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities*.

Available at <http://housing-supply-target-methodology-for-development-planning>. (accessed 21 February 2021).

Laois County Council (2018) *2040 And Beyond – A Vision for Portlaoise: A Strategy for a Better*

*Town Centre*: (<https://laois.ie/departments/planning/portlaoise-town-centre-public-realm-strategyvision-statement/>) (accessed 11 January 2021).

*Authors: Zorica Nedovic-Budic, Brendan Williams and Anthony Abbott King (ARL, 2021)*

## **IRELAND – COUNTRY PROFILE – SPATIAL PLANNING – REPORT 3: Supplemental Information**

Louth County Council (June 2018) *Westgate Vision: A Townscape Recovery Guide*. Available at <https://www.louthcoco.ie/en/services/planning/westgate-vision-a-townscape-recovery-guide-june-2018.pdf> (accessed 11 January 2021).

Roscommon County Council (2018) *Boyle 2040*. Available at <http://www.roscommoncoco.ie/en/Services/Planning/Roscommon-County-Council-Planning-Publications/Roscommon-County-Council-Planning-Publications/Non-Statutory-Plans/Our-Towns/Boyle-2040.pdf> (accessed 11 January 2021).