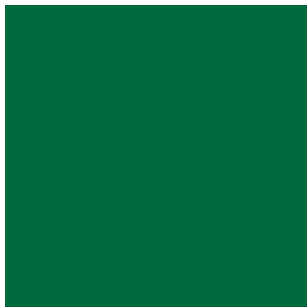


Planning in Ireland: Sustainable Development in a Commercial Environment

Thursday 10 May 2018



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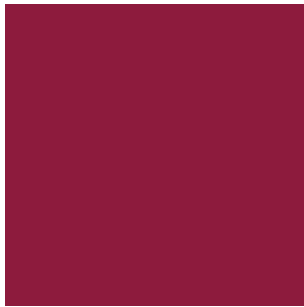
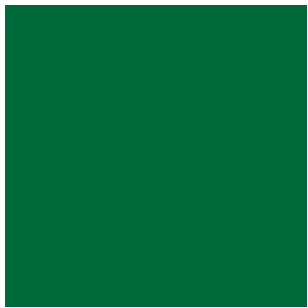
Welcome

Rory Kirrane, Partner and Head of Construction
Mason Hayes & Curran



Planning in Ireland: Sustainable Development in a Commercial Environment

Deirdre Nagle, Partner and Head of Planning
Mason Hayes & Curran



Trends in Planning Judicial Review

Jarlath Fitzsimons SC



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Trends in Planning Judicial Review

Jarlath Fitzsimons s.c.

Environmental Impact Assessment

- Whole project assessment
 - *O’Grianna (No.1)*
- Necessity for a single application?
 - *O’Grianna (No.2)*
 - *North Kerry Wind Turbine Awareness Group*
- 2014 EIA Directive

Appropriate Assessment

- Mitigation Measures at Screening Stage
 - *People Over Wind v. Coillte*
- Recording the Screening Decision/Stage Two AA
 - *RTS Substation Group/ Temple Carrig*
- Establishing/considering the baseline environment
 - *O'Sullivan v. An Bord Pleanála*

Costs

- Aarhus Convention/Article 11 of EIA Directive
- Section 50B
- *North East Pylon Pressure Ltd. v. An Bord Pleanála (No.1)*

Reform?

- Time limits
 - Different time limits for S.I.D.?
 - Shorter time limits for all planning judicial reviews
- Case Management
 - Judicial Review List
 - Commercial List
 - Practice Direction HC74

Conclusions

- Number of judicial review challenges
- Delays to projects
- Success rate of judicial review
- Costs
- An alternative way forward?

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Planning Challenges

Deborah Meghen

Director of Strategy & Innovation, Coillte



Dublin

London

New York

San Francisco

Planning Challenges

Deborah
Meghen
Director of
Strategy and
Innovation



Key Challenges

1)



Community

2)



Consistency

3)



Communication

Open and **Honest** Engagement

Understanding the Community



Seek **Partnership** with the Community

Respect Community Decisions

Consistency

Consistency in Approach

Industry Specific **Guidelines**



Clear **Timelines**

Quality control / Best practice

Two-Way Communication

Early Engagement



Seek Solutions

Transparent / Clear Communications

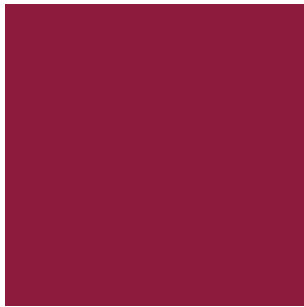
'There's a way to do it **Better** - Find It'

Thomas A. Edison

Planning in Ireland

Christopher McGarry

Head of Planning, Glenveagh Properties Plc



PLANNING IN IRELAND DELIVERING SUSTAINABLE DEVELOPMENT IN A COMMERCIAL ENVIRONMENT

**MASON HAYES CURRAN
10 MAY 2018**

**Christopher McGarry
Head of Planning
Glenveagh Properties Plc
MRTPI, MIPI**

(views expressed are personal)

OVERVIEW

The length of time it takes to get through the planning process/the importance of a strong planning regime.

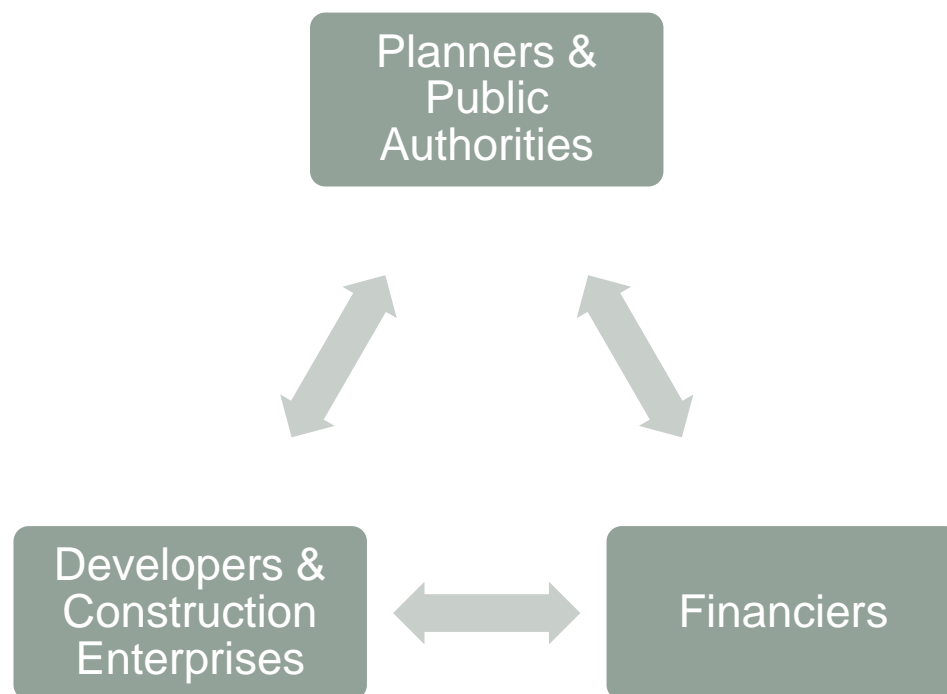
- *Strategic Housing Development*
- *Prioritisation in funding and locational delivery*
- *The objective of housing affordability*
- *Protecting the common good*

Accountable engagement can minimise needless delay and strengthen the integrity of planning outcomes.

KEY ELEMENTS OF AN EFFECTIVE PLANNING SYSTEM



RELATIONSHIP TO FUNDING



HOUSING SUPPLY AND LAND, DRIVING PUBLIC ACTION FOR THE COMMON GOOD, NESC. No. 142 July 2015.

'There is evidence that only when this three-way engagement is created and structured appropriately can many of the immediate bottlenecks be dealt with.'

FROM PLAN TO IMPLEMENTATION



- The final stage is (surely) the agreed objective of us all and the only moment when return, consistent with both private/public spend and the common good, is really achieved.
- Swift progress through these stages is the essential task of what is termed, Active Land Management.
- The planning system is the logical co-ordinating forum for this task.

WHAT CONTRIBUTES TO TIME TAKEN?

- Organisation of funding streams
- Changing development decisions of the prospective applicant
- Assembly and productive input of the necessary design team
- Legal/title issues
- The quality of the input (from all parties) at pre-application
- Indecision (from all parties)
- Uncertainty as to the specific meaning of policy/objectives
- Difficulty in getting clarity from utilities/infrastructure providers
- The application process itself?

WHAT DO PARTICIPANTS WANT?

- Clarity regarding future change, insofar as is possible.
- Decisive judgement call on interim realities.
- A consistency of expression.
- Predictable timelines.
- Clear cost implications.

STRATEGIC HOUSING DEVELOPMENT

<http://www.pleanala.ie/news/300543%20SHD%20decision.pdf>

Approx: 600 new homes, Glanmire, Cork

S247: 15 February/23 March/27 April/6 July 2017

First stage lodgement: 31 July 2017

First stage decision: 25 September 2017

Formal lodgement: 20 December 2017

ABP decision: 29 March 2018

58 weeks once the formal pre-application exercise commenced.

STRATEGIC HOUSING DEVELOPMENT

<http://www.pleanala.ie/news/300559%20SHD%20decision.pdf>

536 homes, Raheny, Dublin

Previous application on site withdrawn in 2016 (Reg. Ref: 3899/15)

S247: 8 March/4 July/26 July 2017

First stage lodgement: 11 September 2017

First stage decision: 6 November 2017

Formal lodgement: 22 December 2017

ABP decision: 3 April 2018

55 weeks once the formal pre-application exercise commenced.

STRATEGIC HOUSING DEVELOPMENT

<http://www.pleanala.ie/casenum/300606.htm>

450 homes Leixlip, County Kildare.

- Original developer proposal: 394 units (all houses)
- As lodged proposal: 450 units (350 houses, 100 apartments).
- Net density: 34.2 per hectare.

*'The design brief for the site is the local area plan which stated that building heights should be restricted to 8m and that **apartments are not appropriate**. Several of the **submissions from the public also stated that the site was not suitable for apartments...***

*The proposed apartments also serve to widen the housing mix in the development, and would thus improve the extent to which it met the various housing needs of the community. **The provisions of the more recent apartment guidelines are therefore preferred to the restrictive approach set out in the local area plan.***

PRIORITISATION

LIHAF

- Funding of infrastructure has always been a weak point of Irish planning system
- LIHAF embeds prioritisation of funding within the planning system
- The focus is on credible delivery.
- Creates related obligations for all stakeholders.
- A failure to deliver homes subsequent to LIHAF investment can attract the Vacant Land Levy.

PRIORITISATION

Use of Land in State Ownership:

- *development management team, could be tasked with:-*
- **Identification** of the key State-owned **lands** capable of volume residential delivery in locations of demand.
- **Prioritisation of treatment and servicing** of such lands by way of consideration of any impediment to delivery.
- *With those capable of immediate or short-term development, model and match the sites' suitability to **ensure that there is an opportunity for all of the market players to assist with volume delivery** and achieve the most economic and speedy delivery.*
- *Put those projects to the market with **an appropriate procurement mechanism** at the earliest opportunity, with clear delivery targets and timelines and penalties in the event of non-delivery to the agreed programme.'*

PRIORITISATION

Vacant Site Levy

Residential land and regeneration land categories.

Whether the site was served by the public infrastructure and facilities (within the meaning of Section 48 of the Act) necessary to enable housing to be provided and serviced.

Ministerial advice to planning authorities,' *'in estimating the market valuation of a vacant site, due consideration should be given to the purpose of the levy, i.e. as a mechanism to incentivise the use and development of underused or vacant sites, not to raise revenue.'*

a way of targeting lands which are technically ready for development by instigating direct action by the owner – build or sell.

PRIORITISATION

*‘When projects are to be put in hand that may cost £1,000 million in 20 years, there is the strongest case for trying to ensure that the location, **progress and balance** of these works are under **continuous and effective guidance** regionally, and between all developers, **public and private.**’*

*‘The best of the Planning Acts or of Regional Plans will be of little use if the supporting structure of administrative and technical skill **is too slender to support them.** In such a case, the gulf between intention and performance may lead to disillusion and even antipathy to all guidance of land use.’*

The Dublin Region, Advisory Regional Plan. Myles Wright, 1967.

HOUSING AFFORDABILITY

*‘while a range of factors is key to increasing housing output generally and apartments specifically, such as securing development finance for residential development generally and a **pipeline of ready to go sites at accessible prices**, including brownfield sites, the purpose of this update of Guidance is to strike an effective regulatory balance... to achieve both high quality apartment development and **a significantly increased overall level of apartment output.**’*

Sustainable Urban Housing: Design Standards for New Apartments. Guidelines for Planning Authorities, March 2018

*‘In the context of the need for an estimated 45,000 new homes in Ireland’s five cities out to 2020 and a minimum of 550,000 new homes across Ireland out to 2040, as identified in the National Planning Framework, with 50% of these to be provided in the five cities, **it is critical that apartment living becomes an affordable, attractive and desirable housing option** for a range of household types and tenures.’*

Review of Delivery Costs and Viability for Affordable Residential Developments, April 2018

HOUSING AFFORDABILITY

What the planning/funding system can do to ensure homes are available which can become affordable.

Review of Part V, or similar, to **affirm an affordable category?**

Requirement for density and consequent housing types (which may meet need rather than market demand). Link this '*spatial*' **intervention in affordability to a funding approach** by Government (confirmed acquisition of a proportion of housing in schemes)?

Always the need for **significant housing investment by Government.**

Present **clear tax obligations** across the stages of land ownership/development/occupation, which are unavoidable and available for scrutiny.

POLITICAL VISION/COMMON GOOD

The politics of planning?

- Exaggerated grievance.
- Presumption of superiority, simply for stating the utopian position.
- Pretence of easy solutions.
- Unwillingness to explain the steps for change/interim positions.
- Reluctance to engage with evidence
(comedian Paul Merton's response when confronted with the fact that he was wrong, '*you can't make me know that!*')
- Refusal to recognise the effort which underpins daily governance.

POLITICAL VISION/COMMON GOOD

South Dublin County Draft Development Plan – Councillor Motion, January 2016

*‘To **reduce the permissible densities** on the land between the Monastery Road and the N7 from the Red Cow Luas station to Round Towers GAA club **to a level in keeping with the residential character of the adjacent community** along Monastery Road and Woodford Hill, focusing on family homes, appropriate green space and amenity, manageable traffic volumes and safeguarding the village character of the immediate area as **the primary gateway into Clondalkin Village.**’*

(note: a 10 year planning permission on part of these lands, granted in 2010, provides for some 346 homes in blocks of 3 to 6 storeys)

POLITICAL VISION/COMMON GOOD

DECENTRALISATION PROGRAMME 2003

The intended transfer of Government Departments to 58 provincial locations.

Finbarr Flood, Chairman of the Decentralisation Implementation Board, noted on the issue of whether these locations accord or not with the NSS that:

“we are an implementation group so we are implementing what was agreed by the Government. The Government decided on the areas and locations.... In terms of location, that is completely a Cabinet decision”.

POLITICAL VISION/COMMON GOOD

2006 report by a Dublin Residential Sales Agent

*'the report is highly critical of the planning authorities and shows that a serious supply crisis is developing in Dublin **caused by planning difficulties at both local authority and An Bord Pleanala levels.***

*'present planning policies regarding density and height, particularly in Dublin, are conducive to promoting urban sprawl... there is an urgent need to intensify use of land... which **can be achieved by being receptive to higher densities.***

2014 article by a Dublin Residential Sales Agent

*'While some local authorities have recognised the need for a greater element of family homes, **others are still insisting on higher density development.** This has caused a stalemate.'*

POLITICAL VISION/COMMON GOOD

'I like how they look because I know what they signify'.

Letter to Irish Times on the issue of windfarms.

MORE PREDICTABLE TIMING/OUTCOMES

- The Government is determined to secure a ***significant increase in the supply of affordable housing***.
- A ***cajoling form of taxation*** will continue to play a role in attempts to secure (a) lower price for housing land (b) speedier use of housing land.
- ***Facilitative infrastructure*** provision on public lands and on/serving private lands will become more aligned with accountable inputs from utility providers and delivery commitments from developers. (the LIHAF type approach)
- ***Procurement of services*** from housing providers to deliver affordable housing, will form part of future utilisation of State lands.
- ***Efficiencies*** within the planning consent and building process are being deployed.
- Planning policy around land will continue to ***increase density and to support urban consolidation***, with a strong focus on apartments, all to ensure a more cost-effective use of land and services.
- ***Technical standardisation*** in affordable housing typologies (especially apartments) is an objective of the Government measures.

MORE PREDICTABLE TIMING/OUTCOMES

- the route from policy to project is not always a straight line; therefore the ***role of competent judgement***.
- infrastructural realities and timelines for resolution may not match with housing delivery aspirations; ***therefore the role of accountable prioritisation***.
- ***planning interventions and funding clarity together*** are critical to affordability.
- the common good is an exercise in interrogation; ***therefore aim to capture it productively***.

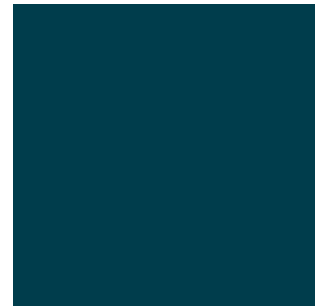
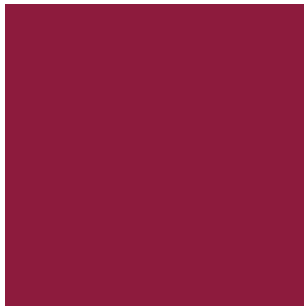
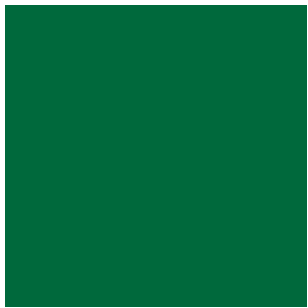
CONCLUSIONS

What the planning system needs to do.

- support clear research and accountable engagement
- protect the principles of the common good
- prepare a plan with a view to implementation
- pursue the primary goals
- ensure sufficient '*wriggle room*'
- review the consequence of decisions
- pester the funders.

THANK YOU

Q&A



Thank you



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