Irish Planning System Overview

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Irish Planning System
Forward Planning
Development Management
Forward Planning Hierarchy

• National Planning Strategies:
  – National Spatial Strategy (DoE)
  – NTA (Draft) Transport Strategy 2030

• Regional Authorities:
  – RPGs (FCC in GDA)

• Local Authorities:
  – County (Town/Borough) Development Plans
  – Local Area Plans
  – Non-Statutory Plans:
    Masterplans, VDS, UCS, Urban Design Statements, Public Realm Strategies, etc.
Fingal in the GDA context
County Development Plan

CDP must **demonstrate compliance** with:

- National Spatial Strategy
  - DOE Dev Plan GIS
- RPGs for the GDA
  - Primary focus on population allocation/targets………..
    dictates numbers and location (metropolitan vs. hinterland)
  - Core Strategy (2010 PDA) – zoning & phasing
- NTA (draft) Transport Strategy 2030 Vision
- EU directives (WFD, AA, etc.)
- Ministerial Guidelines (eg. Retail Planning Guidelines, Rural Housing Guidelines, Residential Density, etc.)

**CDP MUST FOLLOW STATUTORY REQUIREMENTS OF PDA 2000-2012**
NATIONAL
• National Development Plan 2007-2013
• National Spatial Strategy 2002-2020
• Smarter Travel – A Sustainable Transport Future (2009)
• Transport 21 (2008)
• National Climate Change Strategy 2007-2012
• Sustainable Development: A Strategy for Ireland 1997
• Retail Planning Guidelines for Local Authorities (2005)

REGIONAL
• Regional Planning Guidelines for the Greater Dublin Area 2010-2022
• Retail Strategy for the Greater Dublin Area 2008-2016

LOCAL
• Fingal Development Board Strategy
• S.E.A. A.A.
Development Plan Overview

- Plan consists of written statement/text and maps (zoning, land-use/specific objectives, etc.)
- Provides development framework for 6 years
- Progress Report after 2 years (Manager’s report)
- After 4 years the statutory review process commences
- New Plan takes 2 years to prepare
  - Two years is extremely tight timeline – de facto review begins in year 3 (background papers, etc.)
- Plan Accompanied by SEA and AA
Development Plan Timeline

YEAR 1

Weeks no. 1-8

1. Manager’s report on submissions
2. Prep. of Draft Plan
3. Cllrs consider Draft Plan
4. Prepare Draft for Public consultation

Weeks no. 9-16

YEAR 2

Weeks no. 49-58

1. Manager’s report on submissions
2. Cllrs consider Manager’s Report
3. Prepare Draft Amendments for Public consultation

Weeks no. 59-70

Weeks no. 86-89

1. Manager’s report on submissions
2. Cllrs consider Manager’s Report
3. Plan adopted (week 99)
4. Plan comes into effect (week 103)

Preparatory work

Draft Stage (48 weeks)

Amended Draft Plan (36 weeks)

Plan Adopted (14 weeks)

Implementation & monitoring
Best Practice

• Require Councillors to seek amendments to draft Plan through written motions submitted in advance of formal council meetings (7-10 days) … this has been included in most standing orders

• Council meetings held 3-10pm – 3 days per week. (fixed time and fixed/limited number of evenings in a row – allows for rest and preparation)

• GIS systems are critical
Non-Statutory consultation is an important part of the process, in particular with respect to the details/specifics of a CDP and for a LAP.

- FCC engage in non-statutory public consultation with key stakeholders in advance of the draft CDP and LAP.

- draft LAP and SEA screening and AA screening, (collectively known as the Draft LAP) is presented to the Local Area Committee for information and comment.

- Local information sessions are arranged within public display period to meet with the local community

- Non-statutory consultation for draft VDFP, UCS, MPs,PRS,etc.
Typical Development Plan (Map) Sheet

Sheet 9: Malahide/Portmarnock

RA LAP areas

RV LAP area
Local Area Plan

- Local Area Plan (LAP)– guides development for towns/villageas or larger/strategic landbanks
- LAPs – Obligatory & Non-obligatory (<1,500 people)
- 6 year time frame – with the possibility of being extended for a further 5 years

- Once LAP being carried out statutory requirements of PDA 2000-2011 must be adhered to.
Portmarnock LAP

CDP Zoning

Vision – GI, AA, key routes, etc.

Development Areas:
Character & Phasing
Local Area Plans

• Prepared by Planners - adopted by Local Councillors (Act amended to allow Minister review/revoke LAP)

LAP must comply with:

• County Development Plan
  – Zoning & Core Strategy particularly NB
  – No New Zonings

• NTA Transport Strategy 2030 Vision
  – NTA can object to/call into question the adoption of a LAP

• EU directives (WFD, AA, etc.)

• Ministerial Guidelines (eg. Retail Planning Guidelines, Rural Housing Guidelines, Residential Density, etc.)
LAP Process

Non-Statutory process:

- Prepare issues paper for Public consultation
- Manager’s report on submissions
- Prep. of Draft Plan
- Cllrs* consulted re. Draft Plan & submissions
- Draft Plan Prepared

Statutory process (35 weeks):

- Draft Plan displayed
- Manager’s report on submissions
- Cllrs consider Manager’s Report
- Prepare Draft Amendments for Public consultation
- Manager’s report on submissions
- Cllrs consider Manager’s Report
- Councillors adopt Local Area Plan
LAP Timeline

Non-Statutory process (typically)

1. Prepare issues paper for Public consultation
2. Manager’s report on submissions
3. Prep. of Draft Plan
5. Draft Plan Prepared

6. – 8 weeks

Statutory process commences

Week no.
1–6
Public consultation

7–12
Manager’s report on submissions

13–18
Cllrs consider Manager’s Report

19–21
Prepare Draft Amendments for Public consultation

22–25
Public consultation

26–29
Manager’s report on submissions

30–35
Cllrs consider Manager’s Report

Week 35

Councillors adopt Local Area Plan

4 weeks after adoption
Plan comes into effect

4 weeks after adoption
Plan comes into effect

Draft Stage

Non-Statutory Preparatory work

Draft Plan & Amendments

Plan adopted

Implementation & monitoring

* Key stakeholders may also be consulted

Total of 10 weeks
Statutory public consultation
Strategic Environmental Assessment

- All draft CDPs/LAPs or amendments/variations must be screened for SEA under the SEA Directive

- SEA screening compiled by Forward Planning Team – must consult with nominated Environmental Authorities

- If significant environmental impacts found must proceed to compiling a full Environmental Report.

- If no significant environmental impacts found, Draft CDP/LAP must include SEA Statement stating why no significant impacts are likely to occur from proposed development - on public display for comment
Appropriate Assessment

• All draft CDPs/LAPs must be screened for AA under the Habitats Directive

• AA screenings - Natura Impact Reports are compiled by Consultant Ecologists in consultation with the NPWS (National Parks and Wildlife Service)

• The Precautionary Principle applies: If significant effects found through the screening process, must proceed to compiling a full Appropriate Assessment of the draft CDP/LAP or any amendment to same.

• If no significant effects found, the Natural Impact Report is published with the Draft LAP - on public display for comment
DEVELOPMENT MANAGEMENT

planning applications and permissions
Development Management

4 principle types of development and associated application for permission

• Private non-strategic Planning Applications (Part 3) – the norm.
• Development by State Authorities (Part XI)
• Strategic Infrastructure Developments (SID’s)
• Applications with in Strategic Development Zones (SDZ’s)
  • With AA legislation – substitute consent also available
General Context

- **Context and Framework** for DM established by strong and robust **Policy Provisions** contained within the County Development Plan and Local Area Plans (CDP/LAP’s).

- The CDP/LAP’s are **Reserved Functions** of the Elected Members who decide on plan policy at this **Strategic Level** following rigorous debate and majority vote.

- Elected Members have **effective ownership** of the Strategic Planning Context within which DM operates but not DM.

- **Significant move away from Clientelism and Advocacy** – while an executive function (ie officials make the decision) there had been significant endeavours by politicians to bring their influence to bear on decisions – this is changing.
Decision Making on Planning Applications (Part 3)?

- Decision on Planning Applications is an **Executive Function** of the County Manager and this power is generally delegated down to the Director of Planning and Senior Planner / Senior Executive Officer.

- The **Power of Elected Members** is limited in decisions on planning applications.

- The Elected Members use the forum of the monthly **Area Committee Meetings** to make their recommendations on planning applications but these recommendations are not binding on Executive.

- The Power of Elected Members is limited to applications which represent a **Material Contravention** of the County Development Plan.

- Material Contraventions require a **Three Quarter Majority** of the Total Number of the Elected Members (18 out of 24).
DM – The Process

- **Pre planning Consultation** undertaken by Officials

- **Strict Statutory Timelines** for making a decision on Planning Applications (mandatory time limit of 8 weeks for Decision on a Planning Application).

- Additional Information can be sought and the Decision on Further Information must be made within a 4 week period (8 weeks in the case of Application containing EIS/AA).

- Clarification of Additional Information can also be sought.

- **All information** (additional / clarification) must be received by the Planning Authority **within 6 months** of the date of the original request for Additional Information unless a further maximum 3 month time extension granted.

- No further time allowed and final decision must be made.

- Decision of the Planning Authority can be **appealed** to An Bord Pleanala (ABP) by applicant, third parties or Statutory Authority (example NRA). Decision of ABP is final except if grounds for judicial review.
Development By State Authorities (Part XI) Procedure

• Procedure established in the Act for Local Authority Development which is not subject to EIA and above threshold of €127k.

• (State Development subject to EIA is determined solely by ABP under the Act)

• Following six week display of the proposed development, the Executive (Manager) prepares report to the Elected Members addressing all submissions received.

• Elected Members debate the report and agree Manager’s report.

• **Power of Elected Members** - Members can following resolution (motion) by majority vote – vary, amend or disapprove any such development.
Strategic Infrastructure Developments (SID’s)

- Development of strategic or economic importance to State / fulfills National or Regional Objectives (National Spatial Strategy).

- All decisions on SID’s are undertaken by ABP.

- All SID’s are referred on to the relevant Planning Authority for report and recommendation to be undertaken within 10 weeks of receipt of the SID application by ABP.

- Report must set out Planning Authority views on the effect of the proposed development on the environment and the proper planning and sustainable development of the area.

- Report submitted to Elected Members whose opinions shall be attached.

- **Power of Elected Members** to attach recommendations to the Manager’s report to ABP following resolution (motion) by majority vote.
Strategic Development Zones (SDZ’s)

- SDZ – designated development landbank ‘of Economic or Social Importance to the State’.

- Government only power to designate SDZ/ Development Agency to implement planning scheme.

- Following public consultation and report of Executive (Manager) the SDZ scheme is made unless the Elected Members by majority vote decide to vary or refuse to approve the scheme.

- The SDZ scheme can be appealed to ABP which approves with or without amendment.

- Once approved by ABP, planning applications within the SDZ are determined by the relevant Planning Authority and there is no right of appeal.

- Examples Hansfield (FCC), Adamstown (SCC), Grangegorman (DCC).
Planning Appeals Board-
An Bord Pleanala

Independent Body

Inspectorate and Board Members

Appeals of Local Authority decisions

Referrals
Strategic Infrastructure
Strategic Development Zones
Local Authority EIS/AA development
Appeal Procedures

• Can appeal decision or conditions
• De novo determination (risk)
• 4 weeks to bring an appeal
• Persons entitled to make an appeal:
  » Applicant
  » Any person who made a submission
  » Leave to appeal (adjoining landowner, Prescribed Body)

• Other parties may make observations
Appeal Procedures

- Local Authority/Applicant invited to make a submission on appeal
- Oral Hearing may be held (ABP absolute discretion)
- 18 weeks to make a decision (power to extend period)
- Restriction on making further planning application pending appeal
ABP Function

• Appeals to An Bord Pleanála – Independent Body

• ABP made up of Inspectorate and Board Members

• Appeal of LA planning application decisions

• Also responsibility for:
  » Referrals (exemption)
  » Strategic Infrastructure (energy, transport, environment projects)
  » Strategic Development Zones (no right of appeal)
  » Local Authority EIS development