

Department of the Environment, Community and Local Government

Planning Presentation - June 2016

to

the Association of Irish Local Government



Introduction and Overview

Colin Ryan
Senior Adviser, Forward Planning
DECLG



Content

- **Planning and Development (Amendment) Act 2015**
- **Planning and Development (Amendment) Bill 2016**
- **National Planning Framework**
- **An Bord Pleanála Review**
- **Vacant Site Levy (*Urban Regeneration and Housing Act 2015*)**



Planning and Development (Amendment) Act 2015



Planning and Development (Amendment) Act 2015 (Background)

- Real supply is lagging behind demand considerably, only half of the 13,000 starts are new housing schemes
- Demand displacing into the private rented sector and social housing sector mismatched in location and type
- Majority of supply in coming on stream is at a prohibitive cost to those requiring accommodation
- 40% of the market not catered for at all
- Homelessness and social housing cannot be looked at in isolation from the wider housing market output
- Measures taken to date insufficient: emergency situation & the market alone will not perform re pace and affordability



Planning and Development (Amendment) Act 2015

Previous Legislative and Policy Steps....

Urban Regeneration and Housing Act 2015

- Part V (“Housing Supply” - P&D Act 2000) reforms in place – agreements in place awaiting commencements
- Retrospective recognition of lowered development contributions in place
- Vacant Site Levy – registration work to start this year with the levy being liable from 2019

“Stabilising Rents – Boosting Supply” Package

- Rent measures in place
- Development Contribution Rebate (Dublin and Cork) in place
- Apartment Guidelines and Planning and Development (Amendment) Act 2015 in place
- NAMA programme to fund development of 20,000 new homes
- €500m “Activate Capital” NTMA development finance package in place



Planning and Development (Amendment) Act 2015 Enactment and Implementation

- Published in December 2015 and progressed alongside updated Apartment Guidelines as a key part of measures to boost housing supply (which is an emergency)
- Implementation of Guidelines by LA's was identified as key / previous consideration of S28 in 2010 Amendment Act
- Most guidelines vary between advisory and directive content (e.g. access to national roads, floodplains) but no legislative prescription as to how the distinction is presented
- Most S31 Directions relate to cases where key parts of S28 Guidelines not properly applied by LA's
- 2015 Act therefore introduced facility to “highlight” key parts of S28 Guidelines as Specific Planning Policy Requirements to be applied by LA's. In essence, Ministerial Guidelines take precedence where they differ from provisions of Development Plans
- Apartment guidelines were drafted in a way to be compatible



Planning and Development (Amendment) Act 2015 Enactment and Implementation (2)

- New Section 28(1)(C) : re-enforces Ministerial Guidelines, whereby *“those [guidelines] containing specific policy requirements....are required to be applied by planning authorities”*
- Transitional matters had also to be addressed
- Fit with pre-existing differing development plan policies
- Revisions of existing permissions
- Amendments to S169 (Making of Planning Scheme) and accelerated mechanism for reviews of SDZs



Planning and Development (Amendment) Bill 2016



Planning and Development (Amendment) Bill 2016 Background

- Main background to Bill – Introduced to the Oireachtas in Jan 2016
- Final Report of the Tribunal of Inquiry into Certain Planning Matters and Payments 2012 (Mahon Tribunal)
- Tribunal costs still being met by Department's Planning Section – final costs estimated to be circa €159m
- Primary purpose of Bill – implementation of the planning related recommendations of Mahon
- Main recommendations of Mahon report
 - **Establishment of an independent Planning Regulator**
 - **Placing of national spatial strategy/framework on a statutory footing**
- Both recommendations also incorporated as actions in Government's Construction 2020 Strategy (May 2014)



Planning and Development (Amendment) Bill 2016

Office of the Planning Regulator (OPR) – Main Provisions

- New OPR to be established as a separate legal/corporate entity,
- Will provide for appointment of Regulator and Directors (and underpinning staff)
- The mandating of the OPR to carry out 3 core functions
 - a) Independent assessment of LA development plans, local area plans and Regional Spatial and Economic Strategies (RSEs)**
 - b) Investigative powers to examine possible systemic failings in the planning system and any corruption risks therein**
 - c) Research, training and education re planning including training programmes for planning authorities, elected members**
- Will publish annual report on activities



Planning and Development (Amendment) Bill 2016 Other Provisions

- Legislatively defined approach to development of National Planning Framework (Mahon recommendation)
- Streamlining provisions re taking in charge of housing estates by LAs
- Maintaining of adequate security by developers to ensure estates are properly completed and taken in charge
- Mandatory pre-planning application consultations in respect of large residential and commercial developments
- Amend Registration of Title Act to establish a new Register for land purchase option agreements entered into in relation to purchase of land for development purposes
- Enabling provisions to facilitate e-planning (online submission of planning applications and appeals)



National Planning Framework (NPF)



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Overview of the NPF

- Replaces National Spatial Strategy (2002)
- High level, strategic and concise document
- Strategic context for LA planning policy and decisions by ABP (including strategic infrastructure)
- Developed alongside new Regional Assembly Regional and Spatial Economic Strategies
- Planning and Development (Amendment) Bill 2016 - statutory footing – to be approved by Dáil Éireann
- Commitment to the NPF reaffirmed in the Programme for Partnership Government



10 Key Questions for the NPF

1. Sort of place Ireland should be in 20 years - older and more diverse population?
2. How to ensure every place can play to its strengths?
3. How to ensure opportunities for growth and prosperity can be realised and maximised?
4. Jobs and locations?
5. Housing/Location - types of communities created?
6. Movement and Transport?
7. Services and Infrastructure required?
8. Strategic Infrastructure/“game-changing” projects?
9. Environmental Challenges - protection of finite resources, urban sprawl, flooding, binding targets?
10. Implement/monitor/review - Success?



Preparation of the NPF

- Roadmap for preparation published Q4 2015
- Department NPF Team in place
- Cross Departmental Team established to oversee preparation
- Evidence based – NPF Team working with ERSI on population and economics modelling
- High level stakeholder consultation has commenced – will extend to political / public fora
- Positioning to produce a public consultation paper in Q3-Q4 2016



Timelines for the NPF

- Q4 2015: NPF Initial Road Map Document Published
- Q1 2016: High Level Delivery Team established
- Q2 2016: Intensive drafting of NPF and RSES initial stages
Procurement and Appointment of Consultants for EU Directive related Assessments
Stakeholder Consultations
- Q3-4 2016: Finalise NPF Options/Draft for Consultation
- Q2 2017: Finalisation by Government and subsequent publication of NPF & RSESs



Review of An Bord Pleanála

Niamh Drew

Assistant Principal, Planning Policy

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Review of An Bord Pleanála

- The Report of the Independent Review Group on the operations of An Bord Pleanála (the Board) - commissioned by Minister in July 2015 - was published in March 2016.
- The review was undertaken to ensure that the Board was appropriately positioned and fit for purpose from an organisational perspective to fulfil its legislative mandate, taking account of considerations including -
 - **an anticipated increase in construction activity,**
 - **the increasingly complex legislative and policy context within which the Board operates,**
 - **and the increase in functions assigned to the Board**



Review of An Bord Pleanála

- Report contains over 100 recommendations relating to:
 - **the simplification and streamlining of the planning legislation,**
 - **more open arrangements for the appointment of Board members,**
 - **improvements to the processes, systems and practices of An Bord Pleanála,**
 - **access to environmental and other specialist advice,**
 - **mandatory pre-application discussions for all potential Strategic Infrastructure Development projects, and**
 - **changes to the statutory objective timeframes for the work of the Board.**
- Report and recommendations, a number of which would require legislative underpinning, is being reviewed by Department, and the Board, and a Comprehensive Implementation Plan will be developed.



Vacant Site Levy

Urban Regeneration and Housing Act 2015



Urban Regeneration and Housing Act 2015

- Primary purpose of Act -

- To assist in addressing the housing supply shortage situation and stimulate increased activity in the construction sector and contribute to economic recovery

- Key provisions -

- **Introduction of the Vacant Site Levy measure**

- Revision of Part V and development contribution provisions



Vacant Site Levy - Purpose

- Purpose of the new measure -
 - To incentivise the development of vacant sites in urban areas for housing and regeneration purposes
 - Follows on from Action 23 of the Government's C2020 Strategy (May 2014) – to support economic development in urban areas & enable PAs to adopt measures to incentivise use/development of vacant sites and land



Article 43 of Constitution Private property rights

- Citizens have right to private ownership of external goods
- State guarantees to pass no law attempting to abolish the right to private ownership of property, or to transfer, bequeath or inherit property
- However, in accordance with principles of social justice, the State may limit those rights “with a view to reconciling their exercise with the exigencies of the common good”



Article 43 of the Constitution (2)

- In effect, property rights of individuals may be impacted upon where there is a need to address matters of pressing social concern and the wider community good
- Precedents – Part V and the Derelict Sites Act 1990
- Legislation impacting on private property rights must be finely balanced
- This balance has been reflected in the drafting of the Vacant Site Levy provisions in terms of timelines, appeals mechanisms, levy rates, clear criteria for determining vacant sites, etc – all with a view to withstanding potential legal challenge



Sustainable Urban Development

- Land is a finite resource – need to ensure that land is used most efficiently/ effectively
- Increasing urbanisation & population, changing demographics, other challenges
- Sustainable Urban Development becoming increasingly important policy objective
- Need to ensure that urban space is used in more sustainable way, developing more compact urban settlements and avoiding urban sprawl



Sustainable Urban Development (2)

- Benefits of new levy measure
 - **Significant potential to assist in achieving planning objectives in development plans, and**
 - **Generally assist in improvement and sustainable development of urban areas**
- PAs are key actors in planning, design, shaping and development of local areas
- Levy may be more relevant to certain PA areas, all PAs are encouraged to use new tool in promotion of Sustainable Urban Development
- Elected members have important role in supporting successful implementation



Development of vacant sites

- Considerable number of vacant sites throughout the country
- Unsightly, give negative impression of area and can attract anti-social behaviour
- Real need for to address vacancy
- In 2000s, excessive amount of land zoned for housing – but being gradually reduced on foot of 2010 Act reforms as new Development Plans are adopted
- However, there can be situations where land and key sites zoned for development are held back by landowners contrary to the achievement of Development Plan objectives
- **Levy is a tool to address this and become an integral part of the development planning process**



Development of vacant sites (2)

- Main objective is to ensure that vacant or underutilised land is brought back into beneficial use
- Also help to ensure more efficient return on State investment in enabling infrastructure while countering urban sprawl
- Requirement under the Act for all PAs to establish a vacant site register
- Preliminary assessment and quantification of number and location of potential vacant sites in administrative areas
- Assessment for the purposes of the vacant site levy to be provided by way of a report to Council or via the SPC



Development Plan – Supports & Linkage

- Encouraging regeneration of areas and supporting housing supply
- Levy is a new innovative mechanism for assisting Planning Authorities in delivering core strategy
- Important that the levy mechanism is applied equitably and clearly
- Development plan objectives are a firm statutory basis for supporting the application of vacant site levy



Legislative Changes

- The Urban Regeneration and Housing Act 2015 amended Section 10 (2)(h) of the Planning and Development Act 2000, to provide that –

‘the development and renewal of areas, identified having regard to the core strategy, that are in need of regeneration, in order to prevent -

- *Adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land,*
- *Urban blight and decay,*
- *Anti-social behaviour or*
- *A shortage of habitable houses or land suitable for residential use or mixture of residential and other uses.’*

- In this context, PA’s must examine their current Development Plan.



Development Plan - Amendments

- Development Plan gives a firm foundation for the levy application
- There needs to be clear rationale for selection of target areas within which the levy will be applied
- Application of the vacant site levy may be by:
 - **Defining zonings to which the VSL applies - can be mixed use zonings, particularly for regeneration areas**
 - **Defining specific areas to which the VSL applies**
- The application of the vacant site levy can be done in LAPs - but there needs to be an 'upward' linkage to Development Plans



Vacant Site Identification

Act provides clear criteria for identification of vacant sites (0.05 ha)-

- Residential land:
 - *There is a need for housing in the area*
 - *The site is suitable for the provision of housing*
 - *The site is vacant or idle*
- Regeneration land:
 - *The site is vacant or idle*
 - *The site by being vacant or idle has adverse effects on existing amenities or reduces the amenity provided by existing infrastructure and facilities in the area or has adverse affects on the character of the area*



Vacant Site Levy Timeframes

Timeframe for key actions:

- From 1 January 2017, planning authorities shall establish and maintain a Register of sites vacant for the preceding year
- Before 1 June 2018, planning authorities shall issue notifications to the owners of vacant sites that levy will be charged on their sites as entered on the register
- From 1 January 2019, planning authorities shall apply the levy to sites on the vacant site register in respect of 2018 and every year thereafter until the site is no longer vacant



Vacant Site Levy General Provisions

General levy provisions

- Levy is charged at a rate of 3% of the market value of the site, reduced or zero rates of the levy applying certain circumstances i.e. no market for the site or site is subject to site loans etc
- Levy is applied annually in arrears and will continue to apply to site entered on the vacant site register until no longer vacant
- No double levy can apply re derelict site / vacant site:
- There are appeals mechanisms in place for site owners
- Purpose of the levy is not to raise revenue but to incentivise site activation and development
- Levy proceeds are ring-fenced:
 - Primarily to be used for the provision of housing or for the regeneration or renewal purposes in the area
 - Limit of 10% may be used for administrative purposes



Vacant Site Levy - Conclusion

In Summary:

- Vacant Site Levy is a new tool / measure
- Its purpose is to incentivise the development of vacant sites in urban areas for housing and regeneration bringing them back into beneficial use

- Benefits:
 - Assist in achieving objectives in development plans
 - Assist in improvement and sustainable development of urban areas

- Elected members have an important role in supporting implementation of the new measure



Thank You For Your Attention



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