

The Role of Elected Members

Cllr. Peter Feeney,
Galway County Council

Introduction

Planning – it's all about “Place”.

- In terms of development: It's what's **appropriate, sustainable and adds to the economic and social development of a community.**
- That means totally different things to different people. Therefore we have a planning process governed by development plans, planning guidelines, ministerial guidelines, E.U. Directives and precedent.
- Decisions are arrived at when an application has gone through the grinding mill of the process.

Development Plans

Hierarchy:

- Local Area Plans
- County / City Development Plan
- Regional Planning Guidelines
- National Spatial Strategy

Local Area Plans (LAP's)

- LAP's cover defined areas, they have distinct boundaries. Towns of certain size and some Electoral Areas will have LAP's
- Cities are divided in to Geographical Areas, e.g. Dublin South Central LAP, covering the S/W inner city and communities like Ballyfermot, Inchicore, Crumlin and the Liberties.
- Distinct City areas like North Docks LAP and Mahon LAP in Cork.

Local Area Plans

- Under the most recent legislation the making of a Local Area Plan is the responsibility of the relevant Municipal District
- LAP's are prepared for areas that are likely to be subject to development or are in need of economic, physical or social renewal
- The plan will indicate detailed objectives in areas like: transport infrastructure, connectivity, amenities, water infrastructure, design standards, heritage etc.

Local Area Plans

- **The plan will also contain land use zonings which will provide for retail, industrial, community, commercial development areas in addition to residential zoning.**
- This is one of the most important and most controversial of Councillors powers, which I'll return to later.

Local Area Plans

- It is the reserved function of councillors to make, amend or revoke a Local Area Plan.
- The Council must consult with local interest groups and individuals in making the plan. They are invited to make a submission to a pre draft plan, then again to a draft plan and again at a later stage to an amended draft plan, when the public get an opportunity to give their views.

Local Area Plans

- The plan's provisions must be consistent with the Relevant County/City Development Plan and are subject to Environmental Assessment including:
 - Strategic Environmental Assessment
 - Habitat Directive Assessment
 - Strategic Flood Risk Assessment
- This means the objectives of the plan are subject to scrutiny as to whether:
 - They cause environmental impacts
 - Impacts on protected habitats
 - If they are likely to be subject to flood risk.

Local Area Plans

- The LAP contains land use zoning provisions which must be consistent with the Core Strategy of the City or County Plan.
 - You can only zone enough land to cater for your population projection i.e. you can't zone enough land for 1000 people in a town if your core strategy says a population increase of 100 is sufficient.
 - Finding a balance between zoning just enough land thereby driving the price up and too much land which could end up with poor planning decisions.

Local Area Plans

- Need to be mindful of the risk of sacrificing town centres as a result of out of town over zoning.
- Need to provide adequate zoning for amenity and community use in order to allow for the development of sustainable communities.
- **The LAP is adopted by the Council at the end of the process and remains in force for a set period of 6 years.**

County/City Development Plan

- The Development Plan is the main public statement of Planning Policy, Objectives and Development Management of a City or County Council.
- The Plan forms a framework against which Development decisions are made.
- Planning Authorities are obliged by law to make a Plan every 6 years.

County/City Development Plan

- The Preparation of the Development Plan is a Reserved Function of the Councillors and as such is the vision they have for their City or County.
- The Plan is about creating Dynamic Communities without sacrificing a sustainable future .

County/City Development Plan

- Again the Development starts its life as a Draft Plan compiled by the Planning Department of the Local Authorities. Pre Draft submissions are invited and used to inform the Draft. On publication, submissions are invited, the Chief Executive report on the submissions prepared and considered by the Councillors who are entitled to suggest their own changes or additions. The Amended Draft is then put on public display and submissions to the changes are invited. These are considered and the final Plan is subsequently prepared and adopted by the council.

County/City Development Plan

- The Dev. Plan must be consistent with National/ Ministerial Guidelines on various issues like Rural Housing Guidelines, Wind Energy Guidelines, Housing Strategy.
- It must be consistent with the Regional Planning Guidelines. Drawn up on a regional basis, the RPG's support the National Spatial Strategy through the development of Hubs and Gateways and the putting in place of a plan for an integrated transport system and health, education and cultural infrastructure. It also identifies the towns to be developed to create critical mass so they can be the economic and service engines for their hinterlands.

County/City Development Plan

- EU DIRECTIVES The Development Plan must be prepared in conjunction with the provisions of a number of EU Environmental Directives, Natura sites, SAC's, SPA'S etc.
- **Don't Shoot The Messenger!** This is one of the most contentious issues in the preparation of The Plan, especially where a large portion of the Planning Area is designated under these directives.

County/City Development Plan

- The Development Plan is submitted to the Department of Environment, Community and Local Government to proof it for compliance.
- On occasion the Plan may be sent back to The Council for re-consideration but the vast majority of Plans are approved.
- Ministerial Approval which used to be almost taken for granted is now no longer a formality and an increasing number are now being returned for amendment.

Planning Application Process

- The councillor has NO power in the Planning Application Process but has a role in giving advice to a constituent on planning matters.
- Advise your constituent to request a Pre Planning meeting with planners.

Nothing worse than an applicant paying thousands of euro for a NO that a Pre Planning meeting would have given him months earlier at no cost.

Planning Application Process

- Day 1:
 - Pre Planning meeting – applicant, agent/engineer/architect – possibly Public Rep.
- Planner will give a run-down of the requirements .
 - If a single rural house – housing need, design etc.
 - If it's commercial etc. – zoning, retail strategy, infrastructure demands etc.
- Pre Planning report issued – no commitment but areas to watch are flagged.

Planning Application Process

- Day 2: Lodging Day

- **Planning is a legal process**

- The decision is due in 8 weeks.

- The planning application file is open for third party submissions/objections for 5 weeks. Notifiable bodies are informed e.g. National Roads Authority, Irish Rail, Irish Water, NPWS, An Taisce etc. as relevant.

Internally the application goes to the Environment and Roads Departments of the LA.

Planning Application Process

- **Fundamentals**

- Advise your constituent to watch for the following when applying. Basics which are often forgotten.

- Site notice displayed where it can be seen and when it should be seen.

- Sight lines for access onto public roads.

- Water source and waste water disposal.

Planning Application Process

- Week 8: Decision Day

- Decision to Grant – Straightforward, usually a number of conditions and development contributions listed on a document called a C2.
- Decision to Refuse – Straightforward, opportunity to appeal to the Planning Appeals Board better known as An Bord Pleanála. The board will review the Planning File, the decision and the process etc. It will make its decision usually within 18 weeks but it is not restricted to this timeframe.

Planning Application Process

- **Decision Day**

- Further Information Request – usually issues that need clarification and if the information is supplied a decision within one month of receipt of reply.

- Extension of Time – A facility where the Planning Authority intends to refuse the application but offers the applicant an opportunity to address some fundamental shortcoming in the application.

Planning Application Process

- **The Grant** can be appealed to ABP by
 - **The applicant** if there is a condition he feels is unfair.
 - **Anyone** who made a **submission** within the original five weeks.
 - Or a **third party** who disagrees with the decision and if it will have, in their opinion, a negative effect on them may apply to a ABP for **leave to appeal** which may or may not be granted.
- In the event of no appeal a C3 is issued and that is a final grant. This is a legal decision pretty much cast in stone.

Planning Powers

- **Section 140**
- Councillors can pass a special resolution directing the Chief Executive to act in a certain way provided the course of action is legal.
- The 2014 Act leaves that power intact but removes the right of councillors to use it for any **Planning Matter or any matter involving financial or other benefit to an individual or specific organisation.**
- Used widely in the past – Section 4, decisions were subject to ABP appeal and commonly managers refuse to sign them based on legal opinion that developments were illegal.
- Section 140 power is no longer available re planning.

The Role of the Councillor - Summary

- Crucial in certain areas, especially in Planning Policy and areas like land use zoning.
- Some decisions are generational in consequence and deserve deep thought.

- **Advice**

Follow your conscience – be able to sleep at night.

- At a minimum try not to make things worse.
- Avoid kneejerk decisions, you'll usually regret .
- Talk to your colleagues or a retired colleague.
- Be careful of the extremist and the strong arm tactic

Conclusion

Whether Urban or Rural, disadvantaged or prosperous Councils need to create sustainable dynamic communities.

Our strongest powers give us the opportunity to do just that. We need to be aware of them and use them wisely.

Thank You.