

Development Plan Guidelines Submission,
National, Regional and Urban Planning Section,
Department of Housing, Local Government and Heritage,
Custom House,
Dublin 1.

[Sent by email: nrupconsultation@housing.gov.ie]

8th October 2021

Dear Sir/ Madam,

The Irish Planning Institute warmly welcomes the publication of the draft Development Plan Guidelines for Planning Authorities, given the extent of changes that have been made to the planning system since 2007. However, the protracted delays in getting these guidelines published is deeply regrettable, given the raft of Development Plan reviews that have had to be undertaken over the last 18 months following the adoption of the three Regional Spatial & Economic Strategies. Therefore, following the conclusion of the consultation phase, we would urge the Department to expeditiously issue the final Guidelines under Section 28 of the Planning and Development Act 2000 (as amended) as soon as possible.

1. General Observations

Notwithstanding the delays in getting these draft Guidelines published, there are still a number of matters pertinent to these guidelines for which further work is suggested. The specifics of these will be dealt with below, but as a general point, it would be better that the finalised Guidelines deal comprehensively with all appropriate matters and not have further tasks to be undertaken subsequent to their publication.

A further general point is that there is little guidance provided within the draft Guidelines around development management standards, particularly when such standards may be influenced by other Section 28 Guidelines. Each development plan should consider all other Section 28 Guidelines as they are also relevant in the preparation of the development plan. This omission should be rectified in the finalised Development Plan Guidelines. In regard to Section 28 Guidelines and in all other matters of alignment the role of the Office of the Planning Regulator (OPR) is critical in development plan preparation in order to ensure that local policies are in compliance with all relevant sectoral policy at a national and regional level.

Finally, a plan-led planning system is central to the achievement of proper planning and sustainable development. The development plan is the central local level policy framework to deliver a plan-led system. A plan-led system provides certainty for communities, businesses, landowners and all other

stakeholders. In this regard, the IPI is of the opinion that variation of the adopted development plan is a significant action to be used restrictively and, if used, to be justified properly and transparently.

1.1 Technical Appendices

The IPI recommends that all detailed aspects of plan-making, such as coherent approaches and methodologies plan studies and surveys, should all be developed and brought together in a comprehensive set of Technical Appendices to the Planning Guidelines (In the same fashion as the Planning Guidelines for Flooding and the Planning System provide a broad approach to Flood Risk Management and the Technical Appendix deals with matters of detail and design.). There is an urgent need to improve plan-making practices and harmonise the carrying out of baseline studies and data collection methodologies across all planning authorities. In this regard, and as a very basic minimum, the need for proper land use studies and surveys must be addressed in the Guidelines. Technical Appendices also provide the benefit of being more amenable to update and change as context and methods change and evolve. They can also obviate the need to update the principal Planning Guidelines to reflect minor changes in context and methods.

1.2 Implementation and Resourcing

The IPI considers the Guidelines comprehensive in regard to plan preparation, but weak on aspects of plan implementation. Under Section 15 of the Planning and Development Act 2000 (as amended) it is the duty of the local authority to be proactive in securing the objectives of the development plan. In section 10.2 of the draft guidelines in the matter of local authority implementation, there is a failure to acknowledge that development can take place both by the local authority carrying out such development (as a development agency) as well as through development management. The local authority can CPO, assemble and service land while providing for its proper planning and sustainable development through master planning. It can inter alia acquire vacant premises in town centres, initiate regeneration through multi-faceted direct interventions and demonstration projects. Implementation approaches and methods could also be expanded on and included as part of a Technical Appendix to the Guidelines.

The Institute strongly advocates for additional resources for planning authorities as a matter of urgency. In 2021, the Institute carried out a survey of planning resources within local authority planning departments. In response, 77% of planning departments in local authorities recorded under resourced plan making functions and cited an acute need for extra resources within their planning authorities. In the current development plan review cycle and generally the resource constraints in plan making have become transparently acute in local authorities. The plan-making timeframe for statutory plan making dictated by legislation is becoming unworkable. The IPI is calling for an urgent examination of the resourcing of local authority planning authorities to address the chronic under resourcing. The delivery inter alia of the Development Plan Guidelines, other Section 28 Guidelines, Housing for All, the objectives of the National Development Plan and the National Planning Framework is dependent on an adequately resourced planning system of qualified planners with the appropriate expertise and skillsets.

1.3 Alignment of Public Policy

Separately, development plans are becoming unwieldy in their content with significant repetition. Prescribed bodies seek for their sectoral interests to be included along with relevant legislative

provisions, which are covered under separate Codes, for example, archaeology and economic sectors. In one such example, a 57-page document from a government department seeking inclusion of various policies that could be argued were not appropriate to the development plan were submitted to the planning authority. This is becoming more prevalent as different sectors seek for their interests to be taken on board. The IPI believes there needs to be greater alignment of public policies and how they are incorporated into development plans.

1.4 Infrastructure Investment

Government must align national development plan capital investment programmes with the identified infrastructural deficit in the regions and designated centres of scale. The IPI is concerned with the lack of capital investment in centres of scale, which will ultimately inhibit development in the short-medium term and will restrict population and employment growth rates in the longer term. The requirements for costings of infrastructural assessments as referred to in OPR submissions is difficult to obtain and it is also time-sensitive.

1.5 Zoning

The inclusion of the main section on zoning of land in the chapter Sustainable Development and Regeneration suggests that zoning is primarily about settlement strategies and residential land. In fact, the IPI considers the greatest need will be in the area of Climate Action measures, and zoning plays an important role: designating lands for wind and solar energy and also the scope for 'co-location of land use' for example, district heating. The IPI is of the opinion that zoning requires a broader context than settlement and residential land use.

2. Observations on Section 4 Core Strategy

The IPI acknowledges the mandatory housing supply targets issued for the current cycle of development plan reviews. However, it is not clear from the formulation of these draft guidelines whether the Minister intends to issue updated housing supply targets after each Census.

The reference to the Implementation Roadmap for the National Planning Framework (July 2018) in section 4.3 and the population targets set out therein are too specific. It is probable that these data sets will be replaced in the operational timeframe of the Guidelines. Instead, a general reference should be included that documents on population projections issued by the Minister must be taken into account or adhered to.

The IPI welcomes the inclusion of section 4.4.1, which highlights the legal position of no presumption in law that previously zoned land shall remain zoned in any subsequent development plan.

The omission of the 50% 'Headroom' figure in the 2007 Development Plan Guidelines, and reduction to 25% should be carefully considered. Planning authorities need flexibility and an adequate amount of zoned land to provide flexibility and also given the fact that development plans frequently overrun their statutory plan period. It may be useful to reality-check this with a number of Planning Authorities before inclusion in the Guidelines.

While the IPI welcomes the inclusion of guidance on Settlement Capacity Audits (SCAs), a critical step in assessing zoning land requirements to meet housing supply targets is the application of appropriate

development densities to estimate the housing yields of different sites. It is very important that the Department completes its work on further detailed guidelines on residential densities as soon as possible, so that it may be factored into the final Development Plan Guidelines.

3. Observations on Section 6 Sustainable Development and Regeneration

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. The delivery of integrated housing, including affordable, (affordable purchase and cost rental), social and market homes is a central pillar of national, regional and local sustainability.

Residential zoning should be definitive in clearly stating that the residential zoning objective is for the purpose of integrated housing delivery of affordable, (affordable purchase and cost rental), social and market homes. This ought to be the default position on all residential and mixed-use zoned lands.

While we welcome the guidelines reinforcing the importance of the sequential approach to zoning in section 6.2.3, the IPI is of the opinion that the wording needs to be expanded to include other relevant considerations such as infill and/or brownfield sites within the built-up area and locations on high frequency public transport corridors.

It is noted in section 6.2.7 that the Department are currently reviewing the Rural Housing Guidelines. Again, it would be beneficial if this review could be completed prior to the finalisation of these Guidelines so that the issues can be appropriately addressed here in respect of those matters more pertinent to development plans.

Section 6.4 addresses the mandatory 'Regeneration Objective' of the development plan related to the requirement to identify areas that are in need of regeneration. In order to bring derelict, redundant and/or underutilised land, sites and buildings back into active use and to address housing need. The IPI considers that given the level of dereliction, underutilisation and vacancy in many town centres, and the opportunities to augment the national housing stock (especially above commercial ground floors where vacancy is the dominant land use), that whole underperforming town centres should be designated as 'urban regeneration areas'.

Furthermore, a six-year horizon for the regeneration of significant brownfield sites within historic town centres and to provide for the regeneration of town centres themselves is unrealistic. Ideally Development Plans should require the preparation of longer-term, democratically and collaboratively prepared and agreed 'urban centre urban regeneration strategies' that set clear visions of place and function over 20-year time horizon or greater that will be supported and incorporated into future and development plan cycles.

4. Observations on Section 8 Mandatory Objectives: Climate (Adaptation and Mitigation) and Environment

Section 8.1.5 should be expanded to provide guidance on setting appropriate car parking and bicycle standards in development plans, which would encourage a modal shift, as this is often a contested area in development management.

The IPI proposes the following text change to Section 8.1.6 on pg. 95:

Planning authorities must indicate the potential contribution that their development plan can make over its effective period towards meeting the targets set out within the Climate Action Plan 2019 and any revision or update to same with regard to renewable energy and related Government policy. To this end the plan must specify the potential energy resource (in megawatts) for each form of renewable energy (wind, solar, etc.).

The IPI is of the opinion that the proposed text fulfils the requirement of SPPR No. 2 in the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017) while also broadening and embedding the matter into the Development Plan Guidelines.

The exceptional areas for consideration under the development plan Justification Test should be widened to other brownfield/infill sites within the built-up areas of settlements where town centres cannot provide capacity.

5. Observations on Section 9 Mandatory Objectives: Heritage and Landscape

The IPI considers there is a need for greater guidance on when you can add/delete structures to the record of protected structures. The legislation is silent on the provisions regarding the addition of structures on foot of submissions to the draft Plan.

6. Observations on Section 10 Plan Implementation, Monitoring and Reporting

Given that many planning authorities have introduced phasing to residential zoning to deal with issues of over-zoning, this section should be expanded to build in a requirement to explicitly review the extent of Phase 1 zoning, which is actually being delivered on an annual basis. Therefore, if necessary, Phase 2 lands can be brought forward in a timely fashion as required. This would also assist both planning authorities and An Bord Pleanála in dealing with individual planning applications during the plan's lifetime.

7. Observations on Appendix B

The IPI considers that the 'Standard Residential Zoning Objective' should read as follows:

- RS: To provide for integrated housing delivery (affordable, (affordable purchase and cost rental), social and market homes) and protect and improve residential amenities.
- R1: To provide for integrated housing delivery (affordable, (affordable purchase and cost rental), social and market homes) in tandem with the provision of the necessary social and physical infrastructure.

The phasing of residential lands should be provided for in zoning objectives. See our comments in section 6 above regarding phasing of residential lands.

The IPI strongly recommends including a general employment zone rather than the designation of overly prescriptive end-user specific, employment zoning. This allows for flexibility in technological advances that may see different industries, enterprises and other compatible uses co-exist within

employment zones. It may also reduce the potential requirement for material contravention and reduce the potential of judicial review.

8 Urban character, urban quality and place-making

The Guidelines reflect current legislation in respect of mandatory objectives (s.10 of principal Act), themes and topics. These objectives are limited in scope and do not extend to critical integrative areas such as urban character, urban quality and place-making. While the legislation is in need of a substantial overhaul in this area, the Guidelines must do more to address place-making in plan-making. Objectives for urban design are critical to the success of planning and should be mandatory. While discretionary urban design policies and objectives in Development Plan are often targeted at development management, they also have a critical role to play in providing a shared and coherent vision and strategy for the broader public domain of public spaces, open spaces, green areas etc. Development Plans must set out understandable and coherent spatial concepts and strategies for place-making, and these must include for area-wide public space strategies. This is essential also in engaging the community in a more visual and tangible way in the plan-making process. Place-making in the Development Plan could also be set out in a Technical Appendix. Naturally there needs to be alignment with statutory Local Area Plans, however, the current Guidelines in Local Area planning and the associated Manual could provide a basis for the improvement of the Development Plan Guidelines in this area.

8. Other Observations:

- The Guidelines should be instructive, definite and align with legislation. The IPI observes that the use of language in instances throughout the document would appear inconsistent with the legislation. One such example in the Guidelines refers to 'up to 4 weeks 'for material alterations in one paragraph and subsequently states the mandatory 4 weeks in the legislation.
- Clarity is needed in the Guidelines around recommendations of the OPR and legislative provisions. The Guidelines do not address where a recommendation is made by the OPR to change a matter or element that is not a material amendment.
- The Guidelines do not address the matter of timing where new or revised Section 28 guidelines are published subsequent to the draft Plan. Direction is required on how new guidelines can be incorporated when they may result in material amendments or fundamental review of the draft plan provisions. The Housing Need and Demand Assessment is one such example. The publication of other much awaited Section 28 guidelines will give rise to similar issues. In certain cases, it is considered that the amendments may be more appropriately done by way of variation (although the IPI does not encourage variation of the plan in principle). There are a number of practical matters that local authorities and elected members must address that should be clarified in the final Development Plan Guidelines.
- While the legislation sets out what elected members should have regard to and provide a reason, the Guidelines should provide practical examples. For example, to demonstrate what is good practice and alternatively highlight poor reasons for elected members to justify their decisions. This will also potentially reduce the potential for judicial review (eg. See *Sister Mary Christian & Ors V Dublin City Council*).

9. Conclusion

The Irish Planning Institute is willing to engage further with the Department of Housing, Local Government and Heritage, to provide its expertise and perspective in relation to the issues raised in this submission. The Institute appreciates the opportunity to provide its views on the draft Development Plan Guidelines. If the Institute can be of any further assistance, please do not hesitate to contact us.

Yours sincerely,



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