

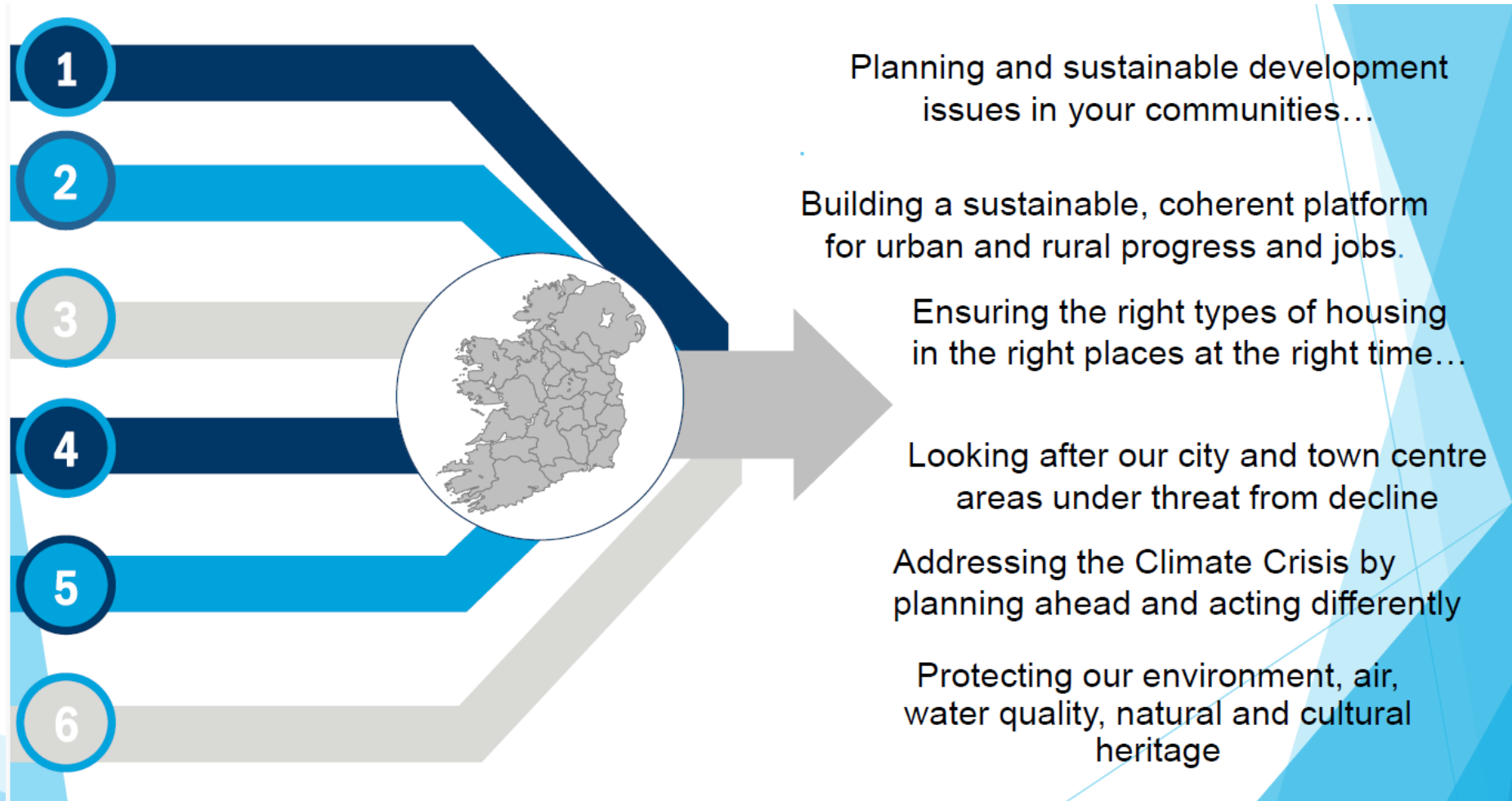


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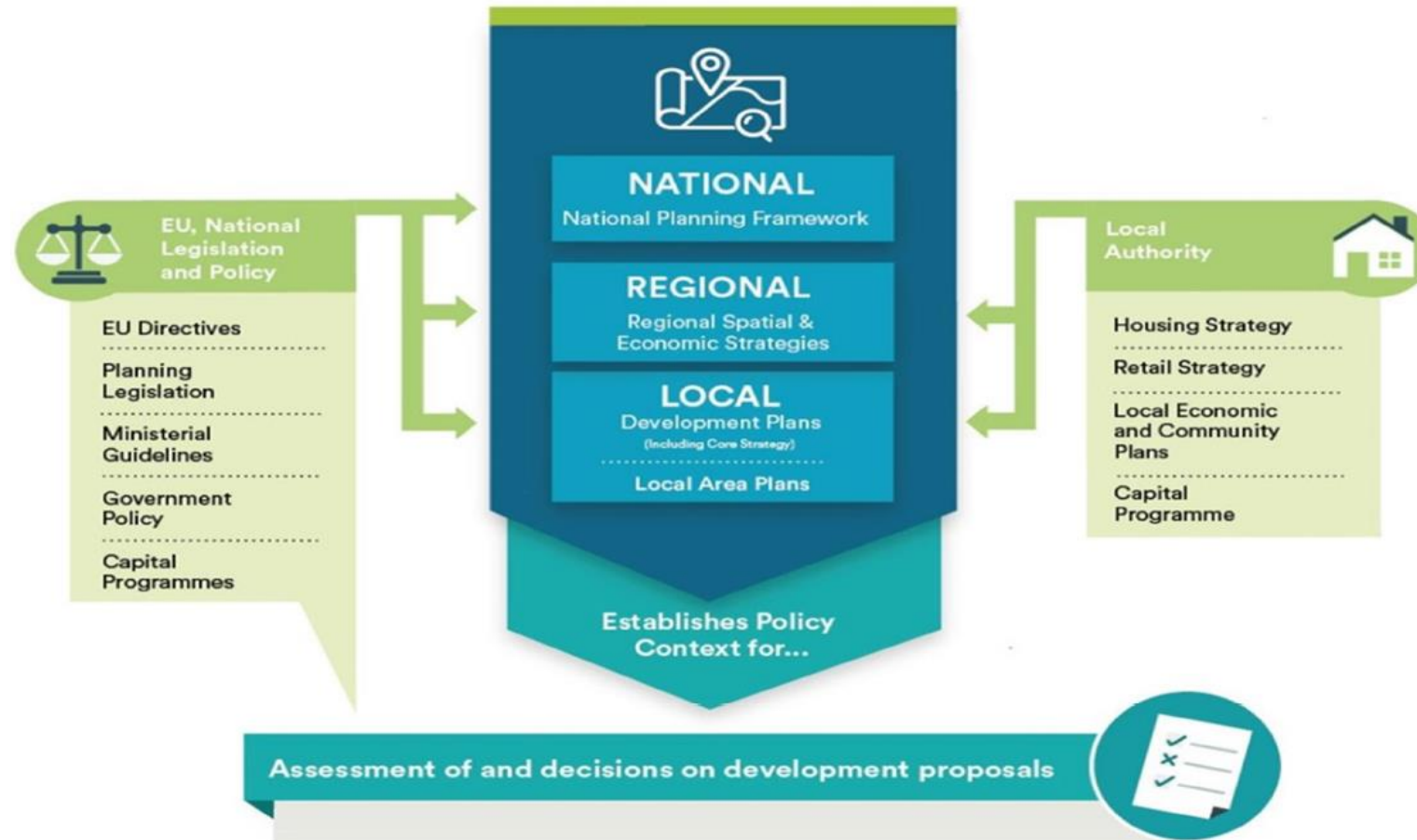
The Role of Elected Members in the Planning Process

Michael Walsh,
Former Chief Executive,
Waterford City And County Council

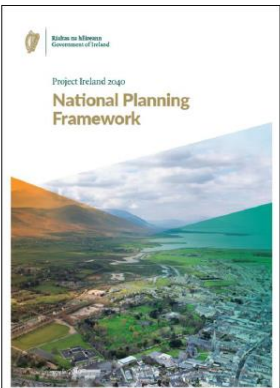
Context for Local Authority Planning



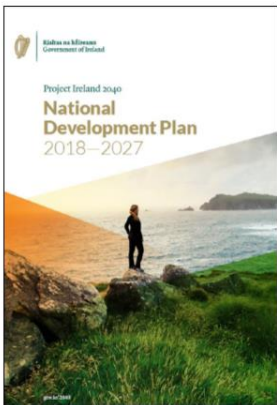
Irish Planning System



National Planning Framework (NPF)

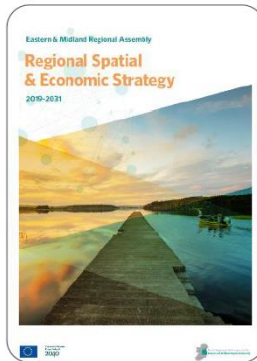


- ▶ Government’s high-level spatial policy to 2040
- ▶ Backed by capital investment...
- ▶ Your plan-making functions should seek to closely align with Government policy under the NPF & NDP...
- ▶ NDP Funds...

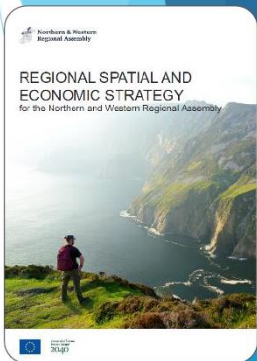
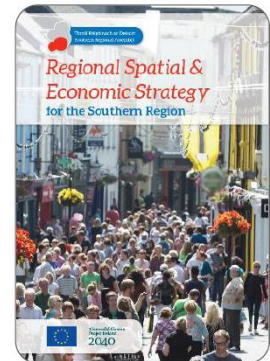


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Regional Spatial and Economic Strategies (RSES)



- ▶ Link NPF & local planning...
- ▶ Co-ordinate LA plans...
- ▶ Agreed by LA’s in each Regional Assembly...
- ▶ Your plan-making functions should seek to closely align...
- ▶ Reviewed every 6 years...



Members – Executive - Functions

(Local Government Act 2001 (as amended))



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Members: Reserved Functions



The making of the development plan/local area plans/planning schemes (SDZ's)



Development contribution schemes/(S48/49)



Approving Budget/Rates/Corporate Plan/Part 8's/Disposal of land/LPT variations

Officials: Executive Functions



All the administrative steps in the plan-making process (including commencement or not as the case may be of plan-making processes)



Development management



Enforcement

Preparing the Development Plan

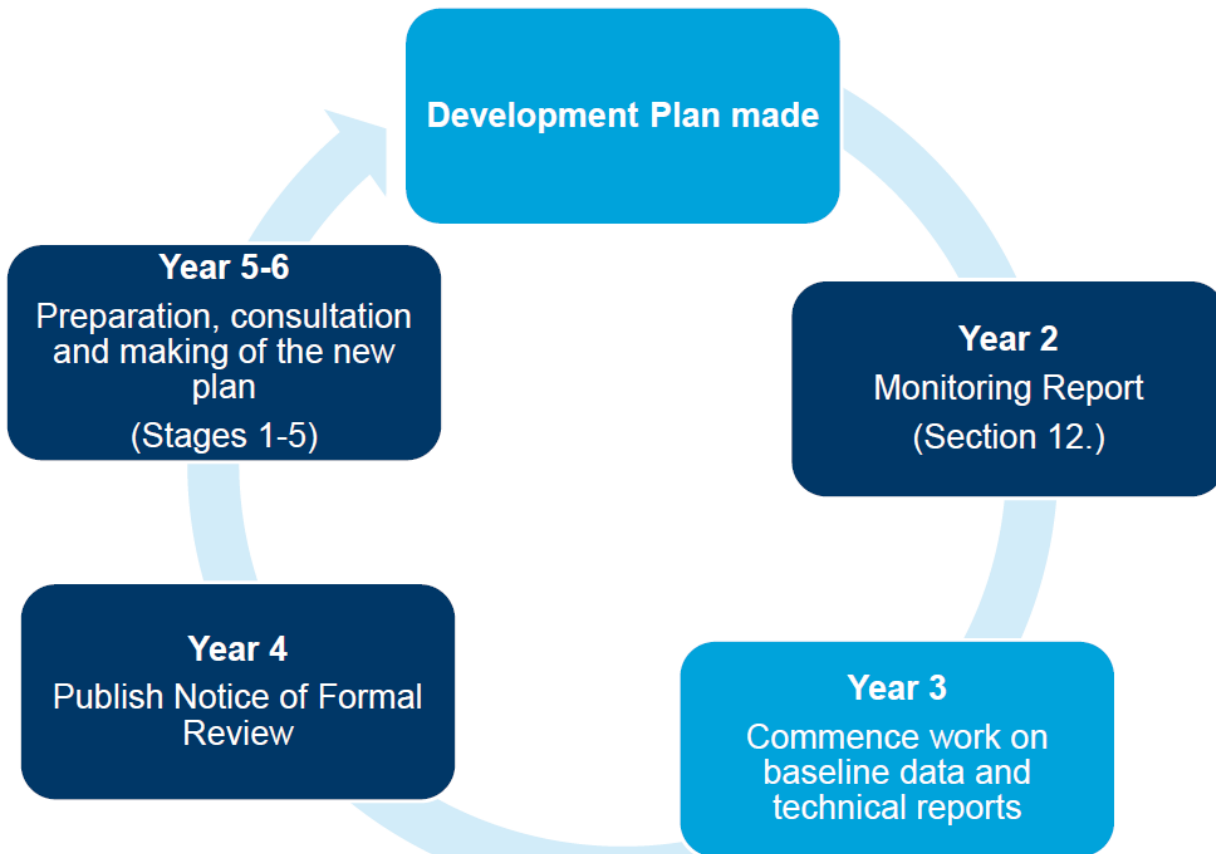
Key Function of Elected Members - Policy Making – Adopting & Amending Development Plans

Key Requirements...

- ▶ **Section 10:** A development plan shall set out an overall strategy for proper planning and sustainable development...
- ▶ **Section 12(11)** In making the development plan the members **shall be restricted to considering the proper planning and sustainable development** of the area...statutory obligations...relevant policies of the Government or any Minister...
- ▶ **Section 12(18)** Statutory obligations include that the plan is consistent with the national and regional development objectives in the NPF and RSES...
- ▶ **Section 27(1)** a planning authority **shall ensure** in making its Development Plan (or LAP) that it is **consistent** with the RSES...

Procedural Requirements

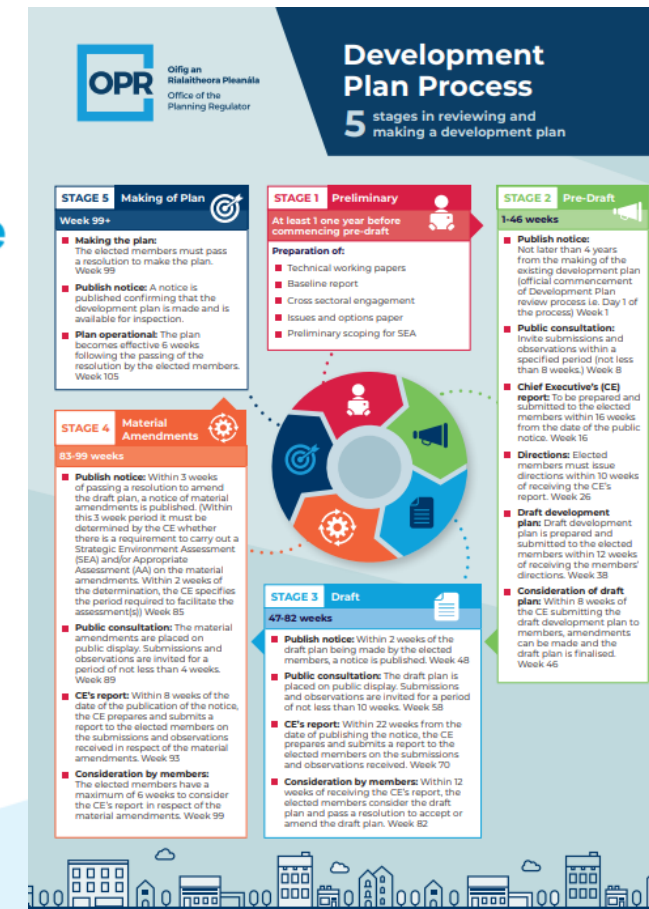
Development Plan Cycle



Development Plan Process

Stages 1 - 5

Available on
OPR website



Development Plan Process
5 stages in reviewing and making a development plan

STAGE 1 Preliminary
At least 1 year before commencing pre-draft

Preparation of:

- Technical working papers
- Baseline report
- Cross sectoral engagement
- Issues and options paper
- Preliminary scoping for SEA

STAGE 2 Pre-Draft
1-46 weeks

Publish notice: Not later than 4 years from the making of the existing development plan (official commencement of Development Plan review process i.e. Day 1 of the process) Week 1

Public consultation: Invite submissions and observations within a specified period (not less than 8 weeks.) Week 8

Chief Executive's (CE) report: To be prepared and submitted to the elected members within 16 weeks from the date of the public notice. Week 16

Directions: Elected members must issue directions within 10 weeks of receiving the CE's report. Week 26

Draft development plan: Draft development plan is prepared and submitted to the elected members within 12 weeks of receiving the members' directions. Week 38

Consideration of draft plan: Within 8 weeks of the CE submitting the draft development plan to members, amendments can be made and the draft plan is finalised. Week 46

STAGE 3 Draft
47-82 weeks

Publish notice: Within 2 weeks of the draft plan being made by the elected members, a notice is published. Week 48

Public consultation: The draft plan is placed on public display. Submissions and observations are invited for a period of not less than 10 weeks. Week 58

CE's report: Within 22 weeks from the date of publishing the notice, the CE prepares and submits a report to the elected members on the submissions and observations received. Week 70

Consideration by members: Within 12 weeks of receiving the CE's report, the elected members consider the draft plan and pass a resolution to accept or amend the draft plan. Week 82

STAGE 4 Material Amendments
83-99 weeks

Publish notice: Within 3 weeks of passing a resolution to amend the draft plan, a notice of material amendments is published. (Within this 3 week period it must be determined by the CE whether there is a requirement to carry out a Strategic Environment Assessment (SEA) and/or Appropriate Assessment (AA) on the material amendments. Within 2 weeks of the determination, the CE specifies the period required to facilitate the assessment[s].) Week 85

Public consultation: The material amendments are placed on public display. Submissions and observations are invited for a period of not less than 4 weeks. Week 89

CE's report: Within 8 weeks of the date of the publication of the notice, the CE prepares and submits a report to the elected members on the submissions and observations received in respect of the material amendments. Week 93

Consideration by members: The elected members have a maximum of 6 weeks to consider the CE's report in respect of the material amendments. Week 99

STAGE 5 Making of Plan
Week 99+

Making the plan: The elected members must pass a resolution to make the plan. Week 99

Publish notice: A notice is published confirming that the development plan is made and is available for inspection.

Plan operational: The plan becomes effective 6 weeks following the passing of the resolution by the elected members. Week 105

Mandatory Legislative Requirements

Include.....

- ❑ A written statement & maps
- ❑ A Core Strategy consistent with RSES and NPF
- ❑ A Housing Strategy consistent with Core Strategy...
- ❑ Mandatory objectives and may contain discretionary objectives...



Demonstrate consistency with national plans, strategies, guidelines...

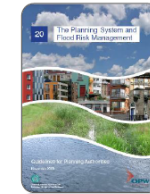


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Mandatory Environmental Requirements



- ▶ SEA Directive - Strategic Environmental Assessment (SEA)
- ▶ Habitats Directive - Appropriate Assessment (AA)



- ▶ Floods Directive - Section 28 Flood Risk Management Guidelines
- ▶ Ensure the plan is informed by a Strategic Flood Risk Assessment (SFRA)



Managing Scarce Resources...

Planning is a key tool in managing finite economic, environmental, societal resources for longer term gain...



Inside the Council Chamber

- ❖ Preparation for meetings on the plan –complex legal and policy environment
- ❖ Reflect carefully on advice from Executive: they are there to guide you...
- ❖ Engage early with issues papers and drafts

- ❖ **Motions:** Essential that motions are not *ultra vires* / out of order
 - Legal principles of proportionality & fairness
 - Cannot relate to different legal code (e.g. building standards)
 - Must be received in time and relate to submission received within consultation process

- ❖ **Conflict of Interest**
 - Executive can advise of potential conflicts
 - Matter for Members to exercise and regulate
 - Where there is a potential conflict, the procedure is clear - declare and leave the meeting.

Requirement to give reasons...

- ❖ You must give reasons if elected members adopt a resolution with which the CE does not agree (either in the resolution, or in the documentation and materials referenced).
- ❖ Planning Authority, through the CE report, must specifically address any recommendations in OPR submissions and must give reasons for not adopting OPR recommendation(s).

Overall...

- ❖ Plan-making must be carried out within the legislative and policy context.
- ❖ Step outside that and the plan is vulnerable – Ministerial Directions, legal challenge & planning appeals.
- ❖ Above all else, your central duty is to consider overall proper planning and sustainable development, not just local interests...

Public Consultation & Sectoral Interests

- **Stages*** Three separate stages of public consultation
 - Issues Paper* - gives direction
 - Pre-draft Development Plan – members only
 - Draft Development Plan*
 - Amendments*
 - Adoption – members only
- **Four Distinct Sectoral Interests**
 - The citizen
 - The property owner
 - The Minister (including the Office of the Planning Regulator)
 - The Executive – to ensure that the integrity of the process is not undermined

Public Participation, Representation, Lobbying, the Development Plan Process and *you...*



Elected members need to engage with **participants**
in the plan-making process

BUT remember...

The Lobbying Act & Regulations



The purpose of the Lobbying Act is to ensure
transparency



Whilst under Lobbying Act – onus on lobbyists to declare
and submit records...



Advisable to keep records/notes of any meetings you
engage in during the lead-up to and during the
development plan process...



Caution should be taken on social media



How to navigate the way through conflicts

- Use the plan-making process to ensure:
 - Strong plan that provides **certainty** to support sustainable development
 - Key decisions are made at the plan stage and not left to development management process
- Listen to all points of view but use the **common good** as your arbiter
- Robust development plans essential to meet the challenges of increasingly complex statutory requirements:
 - Legislative
 - Environmental
 - Procedural



Perspectives / Insights

- The role of the Member in making a Development Plan is central to our system of Local Government – you know your areas better than anybody and know the public will.
- Engage early in partnership with executive, set out a platform for dialogue that allows interactive discourse on the key strategic and possibly contentious issues.
- Don't allow zoning to dominate, the expressed policies are equally if not more important.
- Less is often more.
- Act independently and not on a representational basis.
- Don't allow the loudest voices to dominate – remember the silent majority.



Perspectives / Insights

- Changing society (nimbyism) and changing role of local government.

There is hardly a more important function than setting the framework for the future development of your place!

Despite the complexity there is no substitute for common sense and placing the common good at the heart of your decision making!



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Takeaways...



Each part of Ireland's planning process is designed to work with the others



Since 2000 a strongly plan-led process: National – Regional – Local



Government – Regional Assemblies – Local Authorities – Bord Pleanála – OPR



But! policies set locally must also sit with national/regional requirements



Important that local planning policies address the issues in your communities



Because poor local policy creates uncertainty and risk of overturn (ABP)

Thank You