

# Irish Planning System Legislation and Policy Update

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# Significant Updates

- 1. Project Ireland 2040,**
- 2. Planning and Development (Housing) and Residential Tenancies Act 2016**
  - Strategic Housing Development
  - Amendments to S42 (Extension of Appropriate Period)
  - Amendments to S179 (Local Authority Own Development)
- 3. Planning and Development Regulations (Amendment) Regulations 2018**
- 4. Judicial Reviews**

# Project Ireland 2040

As distinct from the previous National Spatial Strategy, Project Ireland 2040 comprises two parts:

- The new **National Planning Framework (NPF)** shapes future growth and development of Ireland to the year 2040, by guiding public and private investment, creating opportunities for people and enhancing our environment; and
- The new ten-year **National Development Plan (NDP)** underpins the NPF with €116 billion worth of investment.

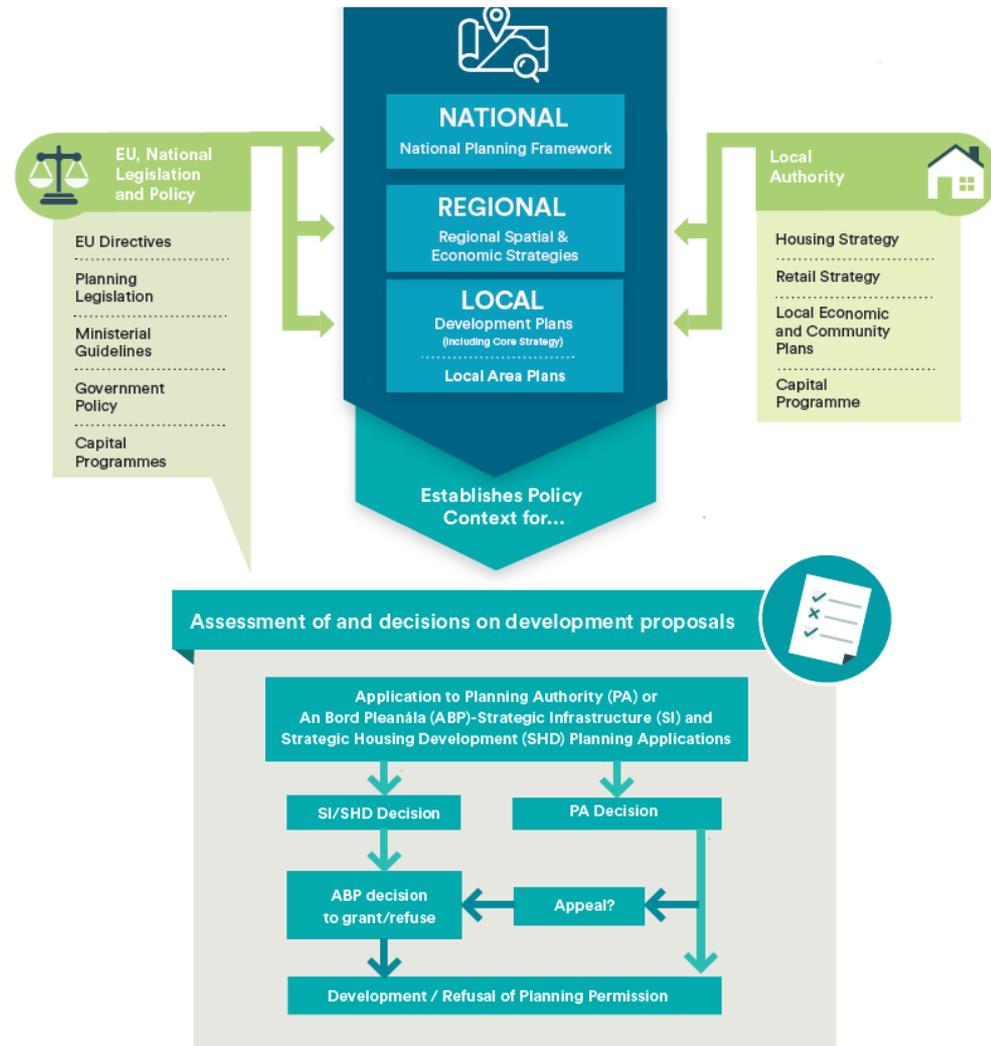
The Government intends the NPF will be placed on a statutory footing when the ***Planning and the Development Bill***, which is currently in the Seanad, is signed into law.



# Project Ireland 2040

The NPF forms the top tier of the national planning policy structure, accordingly establishing the policy context for the forthcoming Regional Spatial and Economic Strategies and local level development plans.

Project Ireland 2040 seeks “to move away from the current, developer-led, business as usual pattern of development, to one informed by the needs and requirements of society. This means seeking to disrupt trends that have been apparent over the last fifty years and have accelerated over the past twenty”.



# Project Ireland 2040

Some Key Facts and Figures which Influenced the NPF:



When economic output and stability are measured, Ireland is firmly within the top ten countries in the world, scoring **highly in terms of gross domestic product or GDP per capita<sup>4</sup>, human development<sup>5</sup>, democracy<sup>6</sup> and foreign direct investment<sup>7</sup> (FDI).**



The ESRI<sup>11</sup> projects that the **population of Ireland will increase by around one million people** or by 20% over 2016 levels, to almost 5.7 million people by 2040.



**Demand for school places** is set to increase to 2025 and for third-level education places to peak in the years immediately thereafter.



Ireland's comparison ranking in areas such as **quality of life<sup>8</sup> and environmental performance<sup>9</sup> is not quite as high**, placing us just within the top twenty countries in the world.



The population aged over 65 will **more than double** to 1.3 million, or to 23% of the total, whilst those aged under 15 will **decrease** by around 10%, with numbers remaining at just below one million in 2040.



The ESRI is also projecting an **additional 660,000 jobs** to 2040. In line with international trends, the ongoing shift to a knowledge economy and the growing role of services will continue to change the nature of work, sustaining demands for a more highly skilled and educated workforce.



Dublin is ranked outside the top thirty cities in the world for **liveability<sup>10</sup>.**



This will give rise to a **need for at least an additional half a million new homes** by 2040.



**New ways of working**, new trade partners and new relationships between producers and consumers will continue to transform the business landscape.

# Project Ireland 2040

**The NPF**- ten strategic outcomes, building around the themes of wellbeing, equality and opportunity - to ensure a consistent approach between planning objectives under the NPF and investment commitments under the NDP.

Since 2015, Ireland has been a signatory to the **United Nations Sustainable Development Goals (SDGs)**, which frame national agendas and policies to 2030. There is significant alignment between the United Nations SDGs and the National Planning Framework's National Strategic Outcomes (NSOs) in areas such as climate action, clean energy, sustainable cities and communities, economic growth, reduced inequalities and innovation and infrastructure, as well as education and health.

1. Compact Growth
2. Enhanced Regional Accessibility
3. Strengthened Rural Economies and Communities
4. Sustainable Mobility
5. A Strong Economy, supported by Enterprise, Innovation and Skills
6. High-Quality International Connectivity
7. Enhanced Amenity and Heritage
8. Transition to a Low Carbon and Climate Resilient Society
9. Sustainable Management of Water and other Environmental Resources
10. Access to Quality Childcare, Education and Health Services

# Project Ireland 2040

The NPF :

- □ Seeks to ensure that 75% of all population growth occurs outside of Dublin.
- Supports ambitious growth targets to enable the four cities of Cork, Limerick, Galway and Waterford to each grow by at least 50% to 2040 and to enhance their significant potential to become cities of scale.

City	Population 2016	Population Growth to 2040 <sup>27</sup>		Minimum Target Population 2040
		% Range	People	
Dublin - City and Suburbs	1,173,000	20-25%	235,000 - 293,000	1,408,000
Cork - City and Suburbs	209,000	50-60%	105,000 - 125,000	314,000
Limerick - City and Suburbs	94,000	50-60%	47,000 - 56,000	141,000
Galway - City and Suburbs	80,000	50-60%	40,000 - 48,000	120,000
Waterford - City and Suburbs	54,000	50-60%	27,000 - 32,000	81,000

# Project Ireland 2040

The NPF (continued) :

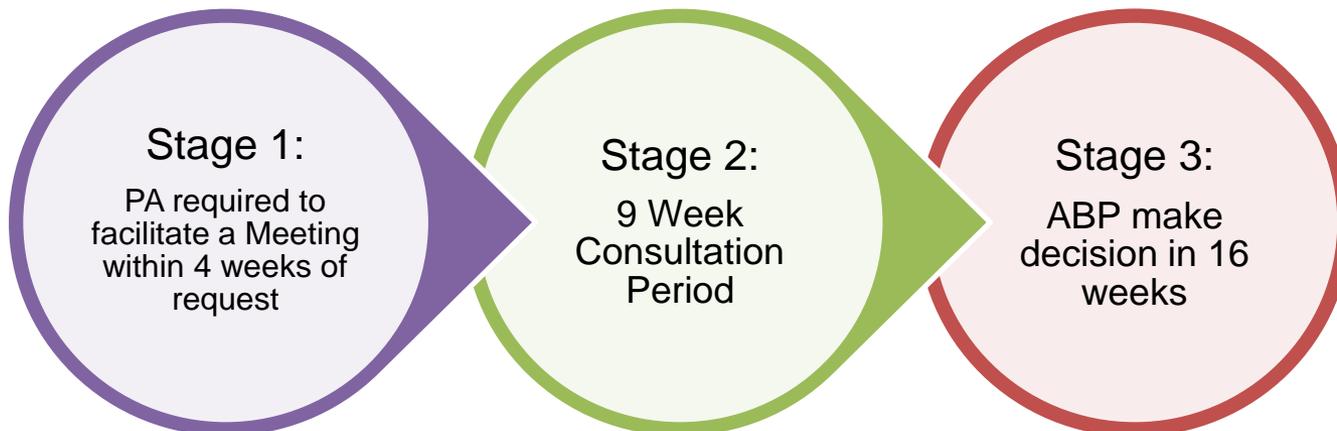
- Includes a specific objective to advance the '**Atlantic Economic Corridor**' – increasing connectivity between Galway and major centres such as Sligo, Limerick and Cork through road and rail upgrades.
- It recognises the extent to which **Sligo** in the North West and **Athlone** in the Midlands fulfil the role of regional centres. It recognises **Letterkenny** in the context of the North-West Gateway Initiative and **Drogheda- Dundalk** in the context of the Dublin- Belfast economic corridor.
- Seeks to strengthen our rural fabric, by reversing town/village and rural population decline, by encouraging new roles and functions for buildings, streets and sites, and supporting the sustainable growth of rural communities, to include development in rural areas.
- Targets a greater proportion (40%) of future housing development to be within and close to the existing 'footprint' of built-up areas.

# Strategic Housing Development (SHD)

- Planning and Development (Housing) and Residential Tenancies Act 2016, signed into law 23rd December 2016.
- SHD provisions of the Act have been commenced since July 3<sup>rd</sup> 2017 and will apply up to 31<sup>st</sup> December 2019 (unless extended)
- Strategic Housing Development (SHD) has been defined as:
  - Residential developments of **100 dwellings** or more;
  - Student accommodation projects containing **200 or more bed spaces**;
  - Mixed developments that include 100 dwellings or more, and/or student accommodation with 200 or more bed spaces; or
  - Alterations of existing planning permissions to permit any development outlined above
- For **mixed use development** SHD provisions can only be utilised where:
  - Cumulative Residential/Student accommodation comprises 85% or greater;
  - Other uses do not exceed 15sqm per gross floorspace per house (7.5sqm per student bedspace) up to a maximum of gross floorspace of 4,500sqm

# Strategic Housing Development

- SHD applications must now be lodged for consideration directly with An Bord Pleanála (ABP).
- Process follows 3 stages
  - Stage 1: Consultation with Planning Authority (PA);
  - Stage 2: Pre-Application Consultation with ABP; and
  - Stage 3: Planning Application submitted to ABP



# SHD Process – Stage 1

- Mandatory S247 Pre-Plan Meeting with PA
  - PA required to facilitate a pre-Planning Meeting within 4 weeks of request
  - Prospective Applicant must provide certain information to the PA 2 weeks prior to the Pre-Planning Meeting incl. draft drawings and plans, statements of compliance with Development Plan/LAP Policy Planning and a supporting planning statement.
  - Department Circular PL3/2017 states that it is essential to engage and confirm with Irish Water in relation to connections to public services
- PA must keep records of meeting and forward to ABP when an SHD Pre-Application Request is made.
- ABP can still process applications should a meeting not be held within the 4 week window.

# SHD Stage 2 - Pre-Application Consultation

- Pre-Planning Consultations with An Bord Pleanála:
  - Written request to ABP after PA consultation (Copy to be submitted to PA)
  - To include site location map, development description, draft plan layout and floor plans, area schedules, statements of consistency (with Ministerial Guidelines and Development Plan), statement of compliance with DMURS, TIA scoping, correct fee, and relevant application form.
  - ABP can accept or refuse request within 2 weeks
  - Within 2 weeks of ABP notification PA required to submit relevant S247 records and their opinion to ABP
  - Within 6 weeks of initial request ABP will convene a consultation meeting (ABP, PA and Prospective Applicants)

## Stage 2 – Cont.

- Consultation meeting will review planning rationale for the development but does not involve a merits based assessment and is without prejudice
- Following meeting ABP will form an opinion as to whether the documents submitted constitute a reasonable basis for an application or require further consideration and amendment.
- This Section 6(7) opinion is needed to advance to the next (application) stage. Stage 2 will be completed within 9 weeks

# Stage 3 – Planning Application

- The Applicant can seek the determination of ABP as to whether **EIAR** or **AA** is required (or scoping) prior to Application Stage
  - Application cannot be lodged until screening/scoping is completed if requested
  - ABP has **8 weeks** to make a screening determination and **16 weeks** to scope
  - ABP can refuse request (within 2 weeks) if adequate details are not provided
- Once the ABP issue opinion under Section 6(7), Application can be made directly to ABP via a process similar to SID process
- PA to issue its report to ABP within **8 weeks**
- ABP will not seek **Further Information**
- ABP must make its decision within 16 weeks of Application (24 wks in “exceptional circumstances” of an Oral Hearing)
- Obviously **no appeal** of decision but it is open to Judicial Review

# Critique of SHD Process

- Up to mid December 2017 applications for 2,254 housing units have been declared **invalid at preplanning stage**.
- An Bord Pleanála is dealing with **13 planning applications** that involve the construction of **4,280** houses, apartments, and student accommodation bedspaces.
- Stage 2 Consultation Meeting will review the planning rationale for a proposed development but **does not involve a merits based assessment**.
- There is no provision in the legislation for ABP to seek **additional information** or clarification of information.
- To date three SHD cases have been determined by ABP; **two out of three** applications have been **refused (i.e. 66% refusal rate)**. UCD Student Accommodation scheme was granted; however ABP ruled that three separate elements, with 828 apartments, must be omitted.

# Extension of PP

- **Second 'Extension of Duration' of planning permissions.**
- **20 or more houses.**
- Already extended and substantial works carried out.
- Further extension of up to 5 years.
- Does not apply where EIA or AA was required before permission was granted.

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# Planning and Development Regulations (Amendment) (No 2) Regulations 2018

- Rationale: The **change of use**, and any related works, relating to the **conversion of vacant commercial premises for residential use** (subject to certain limitations).
- These Regulations amend the *Planning and Development Regulations 2001, as amended* (the Principal Regulations).
- Development consisting of the **change of use**, and any related works, from an existing specified use class to **residential use**, in certain circumstances and subject to conditions and limitations, is exempt from the requirement to obtain planning permission.
- The exemption shall apply from when these Regulations come into force until 31<sup>st</sup> December 2021.



# Judicial Review

- New Provisions for SID
  - Dedicated High Ct. Judge
  - Being Considered
    - Reduced time period to seek JR
    - Eligibility criteria