

Introduction

This submission is structured so as to address the individual parts of the Bill. Each part is initially treated with an introductory comment followed by responses to individual sections which the Institutes consider to be in need of further modification or adjustment.

Part I: Preliminary and General

In general the provisions of this part, which provide definitions, the resolution of questions concerning exempted development, the planning register and associated general matters, are acceptable. In particular it is noted that the definitions of certain categories of development or uses such as agriculture, advertisement, habitable houses and so on have been usefully clarified or extended and will overcome many practical difficulties encountered in day to day development control.

Section 2

In relation to the matter of definitions however, the Institutes are greatly disappointed that no opportunity has been taken to define even in the broadest terms the concept of sustainable development.

The renaming of the Bill in its long title, to include the concept of sustainable development is a welcome initiative. It can also be argued as the Department has done at its convention on the Bill, that concepts related to sustainable development are infused throughout the Bill. However, practitioners in the planning field can foresee practical difficulties in relation to debates, generally in a development plan context as to what sustainable development does or does not amount to. In particular, considering the issue of individual housing in rural areas, it may well be the view of elected Members that very loose control on such developments would contribute to the sustaining of rural communities and that such development would constitute sustainable development. This would ignore very real and physical impacts on the environment in relation to waste-water disposal, locking in reliance on the private car for transportation and degradation in the quality of the rural environment.

It is strongly suggested that the Department rethinks its stance on the definition of sustainable development and gives some practical guidance in the Legislation, which is binding, rather than policy documents which tends to be more loosely followed. It is strongly recommended that the "Brundtland" definition used in the national sustainable development strategy be adopted. This definition is recognised therefore nationally and internationally.

Other definitions considered necessary include the terms "excavation" and "derelict". It is also suggested that the definition of "works" includes the term "maintenance" as is referred to at Section 4 (1)(h).

Section 3

It is suggested that the term “development” includes a reference to activities *over* land as in the case of developments taking place over river channels for example.

Section 4

In relation to 4(1)(i), the reference to the maintenance and improvement of forest roads being an exempted development is of concern as this can be loosely interpreted with considerable environmental effects.

Section 5

The provisions in relation to declarations and referrals on questions as to what constitutes development and or exempted development represent a very significant change. Again, as with many other provisions in this Bill there are profound resourcing implications associated with the introduction of this otherwise welcome initiative. This area of activity would be a completely new one for many local authorities already over-stretched in terms of professional planning staff. The Institutes would urge concise and comprehensive guidance to accompany the publication of the inevitable planning regulations that will follow the enactment of the Bill. In particular, private practitioners in the Institutes have clearly made the point that there is a considerable danger of widely varying interpretations by local authorities of the relevant statutory provisions and exempted development regulations, which could result in a situation where declarations on these question would differ from Planning Authority to Planning Authority.

It is also suggested that this section provides for regulations to be made in relation to the content of such applications. Some Planning Authorities have operated “Exempted Development Certificates” services in the past and in general information supplied to the Planning Authority in relation to these issues was of an extremely low quality. It is therefore suggested that after section 5(2)(c), an additional subsection (d) should inserted providing for the making of regulations by the Minister in relation to the content of such requests.

At section 5 (2)(a), it is suggested that planning authorities would be required to give reasons for their decisions.

What implications would the requesting of details under 5(2)(c) have on the time limit under 5(2)(a)?.

It is suggested that the time limit of one month at section 5(3)(a) be altered to 4 weeks in line with the rest of the Bill.

Under 5(4), it is requested that the Board give a reason for its decision.

Under 5(5), it is requested that Declarations by the Board should be included in the planning register.

In relation to Section 7, concerning the planning register and in particular sub section (5), it is urged that the word “may”, in relation to the Planning Authority keeping information on the register capable of being used to make eligible copy should be altered to “shall”.

Part II: Plans and Guidelines

It is considered that many profound and welcome changes in the Planning Legislation are contained within this part and its associated chapters. In general the Institutes welcome the strengthened obligations of Planning Authorities in terms of regularly reviewing their development plans, statutory recognition being given to local plans and the mentioning, for the first time, of regional planning in the Planning Legislation.

In relation to local area plans, the Institutes welcome the recognition given to these important documents and note in particular that they will now be required in relation to designated census towns with a population in excess of 1,500. The Institutes have however severe concerns in relation to the lack of any precise provisions in relation to the manner in which these plans are made, the way in which public consultation is provided for and the insertion of safeguards in relation to their amendment or revocation. Section 18(5) is considered to be particularly weak and in the Institutes view would render local area plans, which could be for very considerably sized urban centres, to be overly pliable. This may not serve well the interest of the proper Planning and Development of an area and represents considerable downgrading in the strength of Development Plan procedures for scheduled towns under the 1963 Act.

It is also the view of the Institutes that the requirement to have local area plans adopted within 2 years of the adoption of the relevant county development plan is unworkable in practice, given the number of town plans that have to be prepared. This should be increased to four years, or else a transitional arrangement put in place for the first making of all such local area plans.

In addition, it is considered that the time period for preparation of a draft county or city plan is too short given the breadth of tasks envisaged. It is considered that the time period for preparation of these plans should at least be two years with the timetable for the overall adoption of the plan being revised to take this into account.

It is also pointed out that the term “Community Facilities” in relation to mandatory development plan objectives should be defined and include educational facilities, facilities for elderly persons and other categories.

In relation to this issue of “loose” arrangements for local plans, the Institutes would therefore strongly call for statutorily defined:-

1. *Review intervals.*
2. *Display periods and provisions for public consultation,*
3. *Provisions for variation,*
4. *Requirements for compliance with the provisions of local area plans,*

Unless these changes are introduced, the Institutes would be of a view that local area plans would become overly “plastic” and subject to the specific development pressures of a given period without being able to take a more strategic perspective,

The Institutes would express concerns in relation to the apparent abolition of the “oral hearing” process in draft plan consideration and recommend that the planning authority be empowered to direct that a public oral hearing be held in any particular case or cases.

In relation to regional planning guidelines, the making of these guidelines and their statutory recognition in the Bill is to be welcomed. The Institutes note with concern however that the making of these guidelines is not a mandatory requirement. It is suggested therefore that the word “may” be replaced with “shall” at section 21(1).

The Institutes would however echo comments in relation to the fact that regional planning guidelines are a poor substitute for a statutorily backed regional planning tier. This perspective gathers strength when the wording of Section (27)(1) is examined closely wherein it is stated that a Planning Authority shall “**have regard**” to any regional planning guidelines when making and adopting its development plan. As has been the case in relation to so many guidelines and other documents in the past, it is considered that this phrase is particularly weak and without any proper definition. In particular, it has been the experience of planning practitioners, when arguing that a particular development should or should not be considered on the basis of a compliance with various guidelines, that reference to the phrase “have regard to”, in fact becomes ‘*consult, consider and disagree*’.

It is considered that this section should be strengthened and the Department gives serious consideration to the definition of this phrase as it can be widely and loosely interpreted.

A point of serious concern to the Institutes, which is considered to be in need of urgent redrafting and or clarification by the Department relates to “Strategic Environmental Assessment”. Under the provisions of section 10(5)(a) it is our understanding that local authorities are required to include information on the likely significant effects on the environment of implementing the plan. When the definition of an E.I.S. is considered at section 2(1), it is evident that this in fact means that development plans would be subject to E.I.A rather than the more succinct S.E.A. process being anticipated by the Department in the form of forthcoming E.U. directives. A more precise definition is required in order to ensure that plans, both major and local are subject to **strategic environmental assessment** rather than environmental impact assessment.

Part III: Control of Development

Whilst this part restates most of the existing legislation there are a number of significant amendments which affect the public consultation provisions in Irish planning legislation and which again have profound resourcing implications.

The provisions at Section 33 (2)(c), providing for explicit recognition for third party submissions on planning applications is a welcome change. However, in chorus with many other commentators, it is considered that the requirement for paying a fee to make such a submission to a planning authority is a seriously retrograde step. Planning Authorities provide a public service, which is paid for partly by the users of that service i.e. the applicants but also largely by the public. It is considered to be a basic public service element of the functions of Planning Authorities that interested parties in individual planning applications can make comment. If it is considered that administration costs need to be addressed, then such costs should be covered by the application fees since after all issues surrounding individual planning applications are effectively raised by the applicants themselves in making an application in the first instance.

The limitation on appealing in section 36 should be deleted as this is considered to be an unacceptable infringement on third party rights and would be generally unworkable.

The compression of the period within which Planning Authorities will have to decide on planning applications where a full reply to a request for further information has been received, is considered to be a welcome development in terms of ensuring efficient decision making. However, there are profound resourcing implications associated with this change. This is elaborated upon at the end of this document. In addition, if this measure is to be implemented, then a transitional period is certainly required so that necessary resources can be put in place.

An additional provision the Institutes would encourage the Minister to consider is the placement of time limits on the consideration of “compliance submissions”. These arise in the context of matters to be agreed subsequent to the attachment of conditions on planning permissions. At present, high workloads on applications, which are subject to statutory time limits, coupled with limitations on staff resources, leaves this important workload as a low priority issue. It is suggested that the processing of such “compliance submissions” be conducted within an 8 week timeframe.

In terms of detailed comments and in relation to Section 34 subsection (10) (a) (i), it is suggested that where Planning Authority decides to grant a permission, in cases where no appeal is taken against the decision, that Planning Authority shall make the grant within a two week period after the expiration of the period for the taking of an appeal. This would speed up the issuing of ‘Final Grants’ by Planning Authorities, which can take inordinate times to issue.

In relation to Section 34(11), the Institutes welcome the provisions whereby a Planning Authority, following certain procedures, can now take into account the past history of a developer in deciding a particular planning application. However, the

Institutes consider that the mechanism proposed in this section is particularly unwieldy due to its reliance upon applications to the High Court. It is recognised that the origin for this requirement may be related to the protection of constitutional rights, but it is enquired as to whether An Bord Pleanala or lower Courts could have the role envisaged for the High Court as such applications tend to have considerable resourcing implications which hard pressed Planning Authorities can only consider in extreme cases.

The provisions of Section 47 in relation to “development contribution schemes” is a most welcome improvement on the existing situation. The Institutes have also noted the provisions of Subsection (14) in relation to requirements for monies accruing to a local authority from such contributions, being accounted for in a separate account and being only applied as capital for public infrastructure and facilities. This is a most welcome change which will prevent development contributions being consumed by the Local Authorities general account. This practice often made it very difficult for local authority works departments to re-extract monies to carry out the works for which the contributions were levied for the first instance.

The Institutes would point out however that the categories covered by the phrase ‘public infrastructure and facilities’ may be unnecessarily restrictive. In particular, giving the enormous scale and pace of current development and the willingness of individual developers to provide transportation and community infrastructure, areas such as education, childcare, elderly people’s facilities, and the provision of infrastructure associated with railways should be considered for inclusion.

In relation to Subsection (17) (e) it is considered that the word “maintenance” be included in relation to waste water and water treatment facilities.

In relation to the provisions of Section 48, and “Judicial Reviews”, it is considered timely and appropriate that the present tendency for the Planning System to develop towards a two tiered appeal system, after initial tiers in the Local Authority realm in terms of the making of a Development Plan and Development Control and in An Bord Pleanala, is both halted and reversed.

In particular the provisions of Subsection (4)(b)(iv) make significant progress towards defining “Locus Standii”. However, the Institutes would consider that the term “**substantial interest**” should be defined in some way so that it is clear that this does not mean that locus standii is limited solely to property or financial interest, while at the same time ensuring that applications to the High Court seeking Judicial Review only relate to matters whereby for example the principles of natural justice have not been observed.

Part IV: Architectural Heritage

This section generally restates much of the existing legislation and is acceptable.

Part V: Housing Supply

There is obviously a clear need to solve the current housing problem, but the planning legislation alone is not appropriate to the task. The increased or “betterment “ value, attaching to land as a consequence of planning decisions, needs to be captured for the benefit of the community as a whole – in the interests of the common good – through a form of locally collected tax (similar to road tax) or other form of betterment levy. While we support the objectives of the Minister, we have serious reservations about the proposal on grounds relating to the practical workability of the scheme (particularly as detailed in Section 82), the equity of the proposed scheme and its constitutionality.

The development plan by its nature is a legal document, which will have a six-year life. This document does not have the flexibility required for easy review of such housing strategies. The Institutes would suggest therefore that in relation to the provisions of section 81(3)(a), it might be open to suggest that adjustments to the strategy would not automatically require a variation of the plan. The Minister’s attention is drawn to the strong parallels with the Article 26 Reference of the 1996 Employment Equality Bill.

The two Institutes would be happy to contribute to a working group on this matter in order to develop a mechanism which answers current problems in a constitutional and equitable manner.

Part VI: An Bord Pleanala

The existence and workings of An Bord Pleanala in the Irish Planning Code provides a component which is seen to be particularly impartial and open to third party participation, particularly when compared to a European or even a world context. In particular, the broadening of the remit of the Board in terms of taking on functions previously held by the Minister is considered to be a welcome development. The by now familiar phrase of resourcing implications, however, arises in this context and it is noted that the Board has expanded considerably in recent times.

It is recognised that the presently unprecedented levels of appeals intake and their frequent complexity places considerable pressure on the functioning of the Board itself. The Institutes note the provisions at Section 97 in relation to the Board now being able to act by divisions. Notwithstanding the need for this in logistical terms given the volume of work being handled by the Board, it must be stated that the legislature have gone to considerable lengths in the formation of the Board in the first instance to ensure that it is composed from a wide grouping of individual backgrounds. This ‘collegiate’ approach strengthens the representative character of the Board, particularly when dealing with larger cases. The Institutes would therefore consider it a retrograde step if individual divisions of the Board, which could be fixed in membership terms, would operate for excessive periods and also that large cases could be considered by such divisions.

For these reasons, the Institutes recommend that the existing Section 97 should be retitled Section 97 (1) and that a new Subsection (2) be inserted stating that:-

“notwithstanding subsection (1) the Minister shall make regulations to prescribe particular classes of appeals or other business to be determined by a Board Meeting of not less than five Members.”

In addition, section 97(1) should specify that the membership of each such division shall rotate at regular intervals.

The Institutes would also make the comment that this Bill has not addressed the issue, raised many times the past, concerning the Board stating the reasons why it made a particular decision where that decision is of a different nature to the recommendation contained in its own inspector's report. It is recalled at this point that, under the provision of Section (36)(2)(b) in relation to Development Plans, the Board must justify its reasons for contravening a Development Plan. It is considered that in this light a question can be fairly raised as to why such a provision does not apply in the case of inspector's reports. It can be argued that the Schedules attached to the Board decision offers some explanation, however these tend in practice to offer little guidance on specific issues and in general contain only broad statements.

In relation to appeals against conditions and in particular the provisions of Section 124, it is recommended that the Board should be required to give reasons in relation to the decision on such appeals.

Part VII: Disclosure of Interest, etc.

It is considered that the provisions in this part are generally acceptable. However the Institutes are concerned at the inclusion of Section 135(2)(b) in relation to membership of professional organisations. The Institutes would be concerned that Codes of Conduct prepared under these provisions could in some way restrict membership of the Institutes themselves or the taking part in their activities and organisations.

This section should be expanded to call for the registration of the building professions of architect, engineer and town planner. Membership of the Registration Bodies, i.e. Professional Institutes, should then be excluded from the remit of this section.

Part VIII: Enforcement

The Institutes strongly welcome the significant streamlining of enforcement processes in the Bill including the many areas where these are strengthened. There is much room for improvement in performance in relation to this vital area, which will require much additional resources to be truly effective.

Present procedures whereby prosecutions of “indictable” offences come within the ambit of the D.P.P. should be altered to allow the planning authorities to prosecute

these cases. At present, serious planning offences would appear to have a low order of priority in the state legal machinery.

Part IX: Strategic Development Zones

The Institutes recognise the desire of Government and the industrial promotion agencies to ensure that Ireland, as a destination for internationally mobile investment, can compete effectively with the construction and planning consent machinery operating in the jurisdictions with which we are competing. It is noted that measures to protect the interests of third parties have been front-loaded into the approval process for these schemes.

The Institutes wish to express disappointment at the fact that there are no explicit linkages to national or regional spatial strategies stated in Part (ix) in relation to the reasons for adopting such schemes. It is strongly argued that coupled to strong regional and national spatial strategies, S.D.Z.'s have the potential to yield more balanced national development patterns particularly to areas such as the Border, Midlands and Western areas.

The Institutes are also concerned about the apparent wide-ranging nature of this section of the Bill. While strategic industrial or employment-generating development zones are to be welcomed, the legislation is written in such a way that other types of zones could be established, such as housing, commercial etc. This would be too wide-ranging and could over time interfere with the primacy of the local development plans, and the role of the planning authority as the primary development agency in its area. Accordingly, Section 150 should be amended to "such other industrial development authority or body", and Section 151 amended to specify "strategic development zone for specific industrial or employment generating development".

Part X: Environmental Impact Assessment

The Institutes have no particular comments to make in this area as the existing arrangements are being carried over largely intact and issues such as "scoping" were addressed in recent regulations to be transposed into primary legislation.

Part XI: Development by Local and State Authorities

These provisions are generally to be welcomed. However, there is a need to ensure that the proper degree of openness and transparency is provided for in relation to development by local authorities, and in this regard, Section 163 should be amended to the effect that the report to the local authority (subsection 3) shall be in writing (current practice is that many local authorities give only a verbal report). Additionally it is suggested that the report, and subsequent decision, be made available to those who made submissions, and also made available for purchase at the offices of the planning authority. There should also be a time limit (perhaps to be defined in Regulations) as to when the works by local authorities, which have been accepted by the elected members, would have to be carried out.

Section 164 is to be welcomed, as it will provide for a more efficient and transparent system for the taking in charge of housing estates. However, the Institutes question whether or not any adequate provision or saver has been made in respect of existing unfinished estates where the time limit of 7 years for enforcement action has already passed. There should, at the very least, be transitional arrangements for such situations.

Part XII: Compensation

The restatement of many of the provisions in the 1990 compensation act is generally acceptable. Matters which do not attract compensation, are addressed in the comments on the Schedules section below (see page 13).

The “purchase notice” procedure should be retained as it serves a valuable function even if in a small number of cases.

Part XIII: Amenities

The modifications proposed in this section of the Bill to the provisions set out in Part V of the 1963 Act are in general welcomed. In particular, the function whereby the planning authority can declare SAAO's for reasons relating to outstanding natural beauty or special recreational value strengthens local democracy and the process whereby the confirmation of Orders is a matter for An Bord Pleanala to consider is particularly welcomed. The procedure by which that the Board must hold oral hearings where objections to the making of such an Order by a Planning Authority are made is to be commended as is the clear reference in this provision of the Bill to the possibility of certain developments being restricted. The new power, provided under Section 187 of the Bill, to designate *Landscape Conservation Areas* is also a welcome development. In particular it is considered that this provision, through associated powers to regulate previous exempted categories of development presumably yet to be seen, will considerably strengthen amenity designations in the Development Plan process. This will go a considerable way towards enhancing the measures available to a Planning Authority to regulate previously uncontrolled developments in rural areas.

A point of enquiry would be why there is no formal approval procedure through An Bord Pleanala as would apply in the case of SAAO's for landscape conservation orders?

Part XIV: Acquisition of Land etc.

The Institutes note the major changes proposed in this part in relation to the reform of Compulsory Acquisition Law and the transferring of the Ministers functions in approving CPO's and Road Schemes and so on to An Bord Pleanala. The Institutes welcome these changes in relation to the greater role they give An Bord Pleanala concerning the planning process but again the significant staffing and resourcing implications concerning the additional workload will have to be addressed.

A point of concern however, relates to Section 201(2). It is considered inappropriate that under this Subsection, provision is made for dispensing with a necessity to hold an oral hearing. It is considered that this a retrograde step in that the obligations under the existing arrangements now being transferred to the Board in relation to holding local enquiries, can now be “down-rated”. It is suggested that this Subsection be deleted insofar as that if there is a present requirement to hold a local enquiry under existing legislation, then this provision should be transferred across to the new arrangements.

Part XV: Events and Funfairs

This new section of the Bill, which provides for the licensing for certain outdoor events and funfairs by the Local Authority, which in turn will not now be subject to Planning Control, is a particularly welcome development. It has been generally considered for some time that the regulation of such activities through the formal planning approval process is not a particularly efficient or wieldy process with which to regulate this important area.

From an initial examination of the sections under this part, it would appear however that the final position on the effectiveness of this section can not be properly defined until such time as the regulations to be made under this section are made available. However in relation to the provisions of Section 209(2) and particular (f), it is pointed out that specific measures for the incorporation of submissions made by the general public, pursuant to notices advertising that a licence application is to be made, should be incorporated into the matters the Local Authority has regard to in, considering the application for a licence. In particular considering the principles of openness and transparency, the preparation of a report and recommendation on the licence application is to be particularly encouraged.

Part XVI: Financial Provisions

See comments above regarding charges for making submissions or observations to planning authorities on planning applications. Section 222 (1) (b) should therefore be deleted.

Part XVII: Miscellaneous

Notwithstanding the routine title of this part of the Bill, the significance of certain sections is not to be understated and the principal sections of the Bill which are to be commented upon are set out as follows.

Section 223 Pre-Planning Consultations.

It is considered that Section 223(1) is poorly drafted and, aside from resourcing implications, could have the effect of fuelling speculation on properties approaching

sale or auction. Many Planning Authorities have considerable difficulties in these instances with multiples of similar requests not only for information available from a thorough examination of a Development Plan but also detailed requests for information in relation to a Planning Authority stance on a given development proposal. This is an unsatisfactory practice, which is wasteful of resources and which would be better applied elsewhere.

In the interests of openness and service to the general public, the need for consultations prior to the making of a planning application by a prospective applicant is acknowledged. What is important is that these consultations do not become so consuming of resources that they create difficulties in other aspects of the delivery of a planning service. To this end a rewording of section 223(1) and (2) is suggested as follows:-

“A Planning Authority may, where requested, give advice to a person with a sufficient interest in land to make a planning application in relation to the procedures involved in considering a planning application, including any requirements of the permission regulations and as far as possible, indicate the relevant objectives of the Development Plan which may have a bearing on the decision of the Planning Authority”.

Section 228 – Power of Entry on Land.

From experience in Urban Authorities, it is suggested that a worthy addition to the provisions of Section 228(3) would be a power for the appropriate authority to request the owner of the property to be present and accompany the authorised officer of that authority during site inspections.

It is also pointed out that a significant proportion of site inspections by authorised officers of Planning Authorities are carried out without the formal consent of the landowners being given to an inspection being carried out. This is particularly so in cases where a particular property may be vacant, unoccupied but otherwise accessible to the officer concerned. In these cases, it is suggested that the provisions of this section be enlarged to require that consent to site inspections would be deemed to have been given where a planning application has been made to a Planning Authority.

Section 231 – Performance of functions by Planning Authorities.

The radical introduction of a power whereby a Minister can in certain circumstances appoint a Commissioner to carry out functions of Planning Authorities is to be considered a “doomsday” provision, which though necessary as an ultimate sanction, would be hoped to be a power never to be used.

Section 232/233 – Amendments to the Environmental Protection Agency & Waste Management Legislation.

The uneasy relationship between Planning Legislation and Environmental Protection Legislation is a point that has been well made in many arenas and in many submissions right from the introduction of the EPA Act in 1992. The artificial separation of these two complimentary pieces of legislation created by the insertion of Section 98 of the EPA Act has caused a great deal of difficulty for both Planning Authorities and the Agency in relation to effecting a high degree of co-ordination between the functions of these agencies

The provisions in these sections are therefore a most welcome development which permit a more holistic approach to be taken by Planning Authorities of these developments whilst leaving the issue of precise licensing to the Environmental Protection Agency.

The fact that this Section will need to be reviewed in the light of ongoing experience is effectively indicated by the references to the Minister having the power to make regulations to resolve difficulties during implementation.

Part XVIII: Commencement, Repeals and Continuance

The inclusion of the so called technical provision in Section 244 in relation to the powers of the Minister to make regulations which in effect would amend the Act for the purposes of removing difficulties in relation to operation is considered to be excessive. The necessity for this power has to be questioned on the basis that once brought into effect by the Oireachtas as an Act, the primary planning legislation should be amended only by amending legislation.

Schedules

In concert with the comments made in relation to the compensation provisions in the Bill the Institute would call for an expansion in the number of reasons for which refusal of permission would exclude compensation in the Fourth Schedule. In particular, the Minister, through recently published guidelines on residential density, has called for more efficient use of building land and stressed the need for better quality of design. The point has been made in a number of fora that failure to comply with basic design parameters, quality guidelines and so on should be a reason *for refusal* for which compensation would not be attracted.

This point can also be extended to situations where developments contravene directives and guidelines introduced by the Department on areas such as retailing, telecommunications, wind energy and so on. These are now to be given statutory recognition and the Institutes would at this point compliment the Minister on the range of issues covered and looks forward with anticipation to further policy development.

A further point that should be considered is that, where the Minister exercises his powers under Sections 27 or 31 and directs planning authorities to make changes in

their Development Plans (as for example in zoning), the refusal of subsequent planning applications because of such directed changes should be non-compensatable.

Paragraph 12 of the Fourth Schedule should be expanded to include archaeological or historical sites and monuments protected under the National Monuments (Amendment) Act 1994.

In addition, the point may be generally made that there should be a direct reflection from issues covered by conditions, which may be imposed on the granting of a permission without compensation, to the issues relating to reasons for refusal of a permission, which may similarly not attract compensation.

The Institutes would urge the Minister to examine the range of issues covered by conditions, which may be attached without attracting compensation, and ensuring that these issues are similarly covered where permission is refused.

Staffing and Financial Implications

Together with many of the other changes proposed, the 1999 Planning Bill represents a quantum change in the range and complexity of issues to be dealt with, including a considerable improvement required in terms of how efficiently matters are dealt with. These arise in terms of development plans, control of development, enforcement and new areas such as exempted development declarations and licensing of events etc.

It is clear that associated with this quantum leap in roles, responsibility and responsiveness, there will need to be a commensurate quantum leap in terms of the staff and other resources needed to deliver this service.

Reports such as the I.P.I.'s "Quality and Equality" report of 1995 have made this point for some time. It is recognised that labour supply issues such as schooling will need to be enhanced.

The point must be made however that notwithstanding the Minister's welcome circular P.D. 1/98 in relation to the resourcing of local authority planning departments, the take-up of this initiative has been patchy and selective, with some counties yet to advance resourcing proposals and with a notable absence amongst smaller urban authorities. In addition, what extra resources that have been provided are being applied to development control functions almost exclusively with little or no input to forward planning or enforcement functions. Moreover, there still remain counties and many urban authorities, which still do not employ professionally qualified planners to operate their planning system. This is unacceptable some thirty-six years after the coming into force of the Planning Acts, and cannot be permitted to continue into the future.

In response to the publication of this bill, the Institutes have given much consideration to this issue developing from the report referred to above and an analysis of how the "vision of service delivery" in it would be responded to on the ground.

In overall terms, it is envisaged that the operational structure of a planning authority will have to be constituted into 3 main divisions i.e.:

- A division dealing with day to day development control,
- A division dealing with forward planning, including county/city plans and local plans, incentives, architectural heritage, TPO's etc
- A division dealing with enforcement, taking in charge, licensing of events and funfairs and so on.

These would be subject to the overall supervision of a county or city planning officer, who should be appointed for each county and county borough in the State.

Each of these divisions will require their own resources including human skills specific to the task at hand and including provisions for use of best practice information technology such as GIS.

Considering the typical planning authority with about 100 000 population (and with 10 towns over the population threshold for local plans in the Bill) and dealing with

about 2200-2500 proposals p.a., a structure in staffing terms capable of responding effectively is speculatively set out below.

Division	Dev. Plan	Dev. Control	Enforcement
Responsibilities	County/City Plan, 10 or more local plans, Housing Strategies, Preparation of contribution schemes, Architectural Heritage, TPO's, Landscape Conservation Orders / SAAO's, RoW's, etc	Dealing with (a)pre planning, (b) 2500 proposals pa, (c) appeal obs/oral hearings, (d) providing expert back up to enforcement etc. (e) providing real time linkages to Dev Plans. (f)Compliances (g)Planning Clinics	Legal cases Licensing of Events and Funfairs, Taking in Charge of estates,
Staff:Tech	1 x SP 1 / 2 x SEP 2 x EP 1 x Conservation Officer 2 x AP 1 x DT (I) 1 x DT (II)	1x SP 1 / 2 x SEP 5 x EP 4 x AP 1x DT(II) Above based on 2 regions, 4 electoral areas/2 pls./area	(Reporting to DC SEP's) 2 x EP 1 x AP 2 x DT(II)
Staff: Admin	1 x AO 2 x SSO Complementary structure below	Same as for Dev. Plans	2 x SSO's plus complementary structure below
Typical existing "on the ground situation"	Best case scenario: 1 x SEP, 1 x AP 1 x DT(II) Shared admin Worst Case: 1x EP/AP, no other dedicated staff	Best case scenario 1 x SEP/SEE 3 x EP(2 temp.) 2 x AP=poor day to day management, deficient supervisory structure	1 x SSO 1 x DT(II) NB: typically V.Poor.
These would be subject to the overall supervision of a county or city planning officer, who should be appointed for each county and county borough.			

NB: The above structure would require alteration for the individual workload circumstances of individual counties.

The Institutes have extrapolated this structure to the remainder of the country's planning authorities and it is clear that delivery of the objectives in the Minister's review of the planning system in terms of strategic backgrounds to action, timeliness and customer service, can only be responded to effectively by a core professional planning complement double its present level or at least **750 professionally qualified planners**.

The Institutes would at this point stress that the vast majority of staffing resource improvements should be through recruitment of local authority staff rather than the more short-term approach of utilising external expertise. The comments by Minister Robert Molloy at the Town Renewal Seminar in Mullingar on 8th September 1999, where he singled out the superior quality of Integrated Area Plans prepared "in-house" are singularly relevant here. The delivery of an in-house service improves ownership and external skills sourcing should only be resorted to where those skills do not routinely exist within a given organisation.

The introduction of the bill with its many eagerly anticipated features will rapidly be consumed by public frustration if this resourcing issue is not firmly grasped by the Minister and City and County Managers.

Issuing circulars on the matter is insufficient and resourcing needs must be tackled on the basis of perhaps a root and branch independent examination of needs, structures and systems mindful of current or possible developments.

Concluding Remarks

The Institutes wish to compliment the Minister and his Department on the comprehensive way in which the Planning Legislation has been consolidated and amended. It must be said that in general, many of the changes which we have noted and which are not commented upon above have been viewed as generally positive, constructive and will result in a planning service that will achieve the Minister's objectives for a planning system that is:-

- a) *Strategic,*
- b) *Founded in the principles of sustainable development,*
- c) *Providing a performance of the highest quality,*

It is clearly recognised by practitioners, whom the Institutes represent, those in the property and development sector and most importantly within the Department itself, that the introduction of this Planning Bill represents fundamental change in terms the breath of functions to be addressed and the quality of the way in which those functions are to be delivered. It must be pointed out that the City and County Managers will now be obliged to implement the reasonable objectives of the Minister and to staff and resource Planning Authorities to respond positively to the many imaginative components of the Bill.

To this end, the Institutes consider it timely that there is a fundamental root and branch review of the planning service to identify its strategic resourcing needs and to ensure a reasonable equality of service throughout the Country in area both rural and urban. The inequality of service highlighted in a succession of report has been an unfortunate component of the performance of Irish Planning Authorities in the past.

The Institutes would welcome an opportunity to participate with the Department and other consumers of the planning service in the preparation of such a study. In addition, the Institutes are available to elaborate upon points raised in this submission and any other areas that the Department may wish to discuss at its convenience.

Appendix**Membership of Joint Planning Law Review Group**

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