

Recent DEHLG national planning policy and legislative developments

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NSS Update 2009

- Significant change in circumstances since NSS was published in 2002
- Fundamental policy aims are still valid
- Renewed focus needed on effective implementation
- Pressure on public capital programme requires more prioritised infrastructural investments
- Review shows unsustainable settlement patterns in the commuter catchment areas of Gateways
- Governance issues need to be addressed

Review of the RPGs

- RPGs represented a major new element in the hierarchy of spatial plans under the 2000 Act
- RPGs given new status in relation to strategic infrastructure under the 2006 Act
- Current review of the RPGs will include regional economic analysis / guidance for local economic strategies
- Review will also incorporate SEA and (if relevant) appropriate assessment

Planning Amendment Bill 2009

- Introduction of “core strategies” in development plans
- Intention is to strengthen links with both RPGs and local area plans
- Providing a rational and transparent basis for proposed zonings
- No scope for wasting public resources on poorly located and excessive zonings
- Aim is also to achieve more sustainable settlement patterns

Retention of EIA-type developments

- Important ECJ ruling in July 2008, arising from Derrybrien wind farm mudslides
- Ireland required to respond formally by means of legislation and enforcement practice
- Proposed “substitute consent” + “remedial EIS”
- Major issue relates to unauthorised quarry developments
- Any new legislation has also to deal with defects which have emerged in implementing section 261 of the 2000 Act

Clarification of “modifications” to draft plans

- Established principle that material amendments to a draft plan must be put on public display
- Some doubt has arisen as to the discretion councillors may exercise in “modifying” amendments which have been on public display
- Bill will seek to clarify the issue, and to confirm that such modifications cannot include additional zoning
- Some ambiguity re amendments / variations to LAPs will also be resolved – terms will be consistent with those used in relation to development plans

Foreshore legislation

- Responsibility for granting foreshore licences is being transferred to the Minister for the Environment
- Separate Bill will deal with implications for major offshore developments such as wind and tidal energy
- Such projects have potential to make a major contribution to the achievement of national energy and climate change objectives

Section 28 planning guidelines

- Submissions on draft guidelines on flood risk management are being processed – intention is to finalise guidelines by mid-year
- New guidelines being prepared in relation to:
 - Developments adjoining National Roads
 - Local Area Plans

Appropriate Assessment

- Appropriate assessment of plans and projects which may have a significant effect on Natura 2000 sites is required under the Habitats Directive
- Planning Bill will establish proper transposition, especially in relation to draft plans
- Circular issued in Feb. 2008 – technical guidance document being prepared
- Key difference between appropriate assessment and SEA / EIA

Amending the EIA Directive

- Need at least to codify 3 related Directives (1985 / 1997 / 2003)
- Experience in implementing EIA – especially ECJ rulings – suggests case for more radical approach
- Role of EU Working Group
- Issues include screening, relationship with SEA Directive, consideration of “reasonable alternatives” and cumulative impacts
- Commission likely to signal scale of proposed changes this autumn

How the planning system can respond to the economic crisis

- Promote development which sustains or creates jobs, particularly the knowledge economy in Gateways and Hubs
- Ensure that development plans and LAPs are in place to underpin recovery in the housing market whenever that happens
- Adopt a pro-active approach in pre-application consultations, as advocated in the Development Management guidelines