

The Planning Hierarchy and Consistency between Plans

Summary of talk by Michael Smith to IPI Conference, 20 Nov 2009

The Planning Hierarchy is the National Spatial Strategy, the Regional Planning Guidelines, the County and City Development Plans and Local Area Plans (and other area plans).

McEvoy and Smith v Meath County Council established that a requirement to “have regard to” Regional Planning Guidelines in fact allowed the local authority to flout them in the Development Plan.

The RPGs are supposed to give effect to the NSS. The Development Plans are supposed to “have regard to” the NSS and Regional Planning Guidelines (and the planning bill will require they are “consistent” with the NSS and Guidelines). Local Area Plans already are supposed to be “consistent” with Development Plans.

Consistency is not and will not be enough to ensure compliance. We know this because LAPs often breach Development Plans even though the 2000 Planning Act requires they be “consistent with” them and even though the Minister for the Environment can require compliance he rarely if ever successfully asserts the right.

Planning Permissions must “have regard to” all the components in the hierarchy. If they do not, it requires someone to appeal or litigate before An Bord Pleanála or the courts will assert the hierarchy.

The hierarchy is often flouted in both plans and planning permissions.

A test case is being prepared to challenge the scam of LAPs breaching Development Plans. This will also highlight the inadequacy of the proposal that is central to the current planning bill - that Development Plans be “consistent” with the NSS and RPGs.

Local Authorities often breach their own Development Plan. Indeed there is some evidence Local Authorities often don't really follow plans of any sort. This could render the hierarchy irrelevant whatever legislation says.

