



## **Submission on Planning Application Process and Procedures Development Management Guidelines**

Chambers Ireland represents the largest network of businesses in the State. With over 50 member chambers located throughout Ireland, we are in a unique position to understand the concerns of businesses in every region of the country and every sector of the economy.

Ireland's competitiveness is improving. Following the economic crash in 2008, policies have been put in place which have reduced the cost of doing business and will ensure that Ireland is well positioned to compete in an increasingly global economy.

The World Bank's Ease of Doing Business index consistently identifies Ireland as an excellent place to do business. Indeed, the most recent rankings saw Ireland achieve 15<sup>th</sup> place. However, it is unlikely this performance will improve significantly without policy adjustments in a number of key areas. One of these is planning.

This consultation asks whether changes should be made to improve the efficiency of the planning application process; we would argue that this is vitally important.

The consultation further asks whether such an outcome will compromise public participation and environmental assessment. We would argue that this is not a zero-sum question. An efficient planning system should be able to take account of the needs of business and allow for public participation and environmental assessment.

Given the needs of the economy, investment is needed to grow local economies and to develop Ireland's strategic infrastructure requirements. Therefore, it is vital that the planning procedures overseen by both local authorities and An Bord Pleanála are reviewed and updated to produce the type of systems that will make Ireland a better place for entrepreneurs to start businesses, for businesses to grow and for international companies to invest.

### **Local Authority Planning**

For many companies, the main planning authority they will deal with is their local authority.

Given the recent reforms in the entire area of local government in Ireland, now is the ideal opportunity to ensure that the planning system is fit for purpose and responds to the needs of local businesses and local people.

The Local Government Bill recognises the need for community-led planning. As a vital part of any community and as the main funders of local government, we believe that businesses should be at the heart of planning considerations.

The introduction of a **Local Property Tax** will result in a substantial alternative source of revenue for local authorities. This should result in a reduction of the financial pressure many authorities currently face. Therefore, we believe there will no longer be an incentive for local authorities to

chase significant funds through development contributions raised by granting permission to large out of town retail centres. Development management should instead focus on encouraging a healthy mix of retailers and other services in town centres. Such an approach will give increased vitality and viability to town centres and protect much needed employment.

**Local Enterprise Offices (LEOs)** should be mandated to assist businesses with planning applications: ensuring they understand the process and guiding businesses through it. LEOs can be a resource where potential applicants can consult on future plans and access information. This can lead to a reduction in the number of poorly-prepared applications and help achieve many of the elements identified in *Development Management: Guidelines for Planning Authorities* (June 2007): efficient handling of applications; effective communication of decisions; compliance with fair procedures; high quality developments; and effective enforcement.

**Consultation with business** should become the norm within a reformed planning process. Local authority planning divisions should consult regularly and frequently with business to develop bottom-up, multi-annual and multi-sectoral planning policies. Planning must go beyond a simplistic land-use model and encourage strategic development at a local level; to promote proper planning and sustainable development, including essential infrastructure for business, rather than merely controlling unattractive or undesirable projects.

Finally, we believe that a flexible approach to aberrant situations arising from the property crash should be adopted. For example, the conversion of properties to other uses where they have successfully let for a number of years should be considered, particularly where it can lead to market stimulation.

### **Strategic Infrastructure Planning**

In 2011, Chambers Ireland produced a major piece of research on strategic planning in Ireland, the main conclusions and recommendations of which are listed below. We believe that these conclusions remain valid today.

We believe these can strike a balance between community consent, environmental assessment and a cost effective planning system that facilitates swift decision making on critical infrastructure investments.

- 1. Make An Bord Pleanála Fit for Purpose**

An Bord Pleanála's core responsibility must be clarified to ensure that its role is completely focussed on adjudicating on what is presented to it rather than offering an opportunity to redefine or redesign proposals. It should also offer greater transparency in providing feedback and direction on planning process decisions to all stakeholders.

- 2. Implement Enforceable Timeframes for Decisions**

We need greater consistency in the 18 week statutory guidelines target. There is simply not enough urgency when it comes to meeting this deadline and the negative cost effects of this on businesses are often disregarded.

- 3. Use the Oral Hearing Process Sparingly**

The Oral Hearing process could be made more cost effective as an information gathering opportunity if it was used sparingly and to complement a written submission process. In

addition, the current rules for the conduct of Oral Hearings are not clearly defined and their conduct is at the discretion of the Inspector. The process, in terms of issues which can be raised, level of detail required, process of cross examination, third party and objector involvement etc. needs further clarity.

**4. Reduce the Costs of Planning Applications for Business**

The €100,000 application fee for strategic infrastructure projects should be reduced. Uncertainty and delays in the process acts as a disincentive to business and coupled with a relatively large application cost, potential investment can be lost. Given that An Bord Pleanála has the right to apply a condition of approval seeking costs from an applicant in respect of determining an application, a lower application fee would enable ABP to recoup its costs, but in the certainty of a development being approved—thereby reducing uncertainty.

**5. Improve Coordination Between Government and Private Sector Infrastructure Providers in the Project Development and Scoping Stages**

A fresh approach is needed to the way government does business with the private sector to meet the State's infrastructure requirements. There must be greater emphasis on the removal of barriers to private sector investment and the proper structuring of projects to ensure best practice outcomes for the State. Processes should aim to minimise transaction costs for the private sector, consistent with the need for attention to be given to requirements for competition, regulation or service standards.

**6. Enable Longer Planning Permissions Periods**

While the Planning and Development Bill 2009 makes provision for planning permissions to be extended from 5-10 years, strategic infrastructure projects often require longer timeframes. We support calls for such permissions to be granted for a period in excess of 10 years so that resources can be properly developed without the need to re-apply for planning permissions every 10 years.

**7. Expand the Meaning of Strategic Infrastructure**

The Planning and Development (Strategic Infrastructure) Act 2006 specifies categories of infrastructure; however, it could be usefully expanded to benefit other major commercial or industrial infrastructure such as pharmaceutical facilities. There is also the issue of processing planning applications for smaller projects that are integral to strategic infrastructure networks.

**8. Review the Third Party Appeals System**

Greater priority should be placed on third parties who can demonstrate that they may be potentially directly affected by a proposed development. If a party raises an issue that does not directly affect them, then it should not be considered by An Bord Pleanála. This would greatly reduce the number of 'principle' objections. We recognise that this change may give rise to constitutional issues which will need to be clarified.

**9. Revise the Process by which a Project can be Judicially Reviewed**

Currently projects can be appealed to the High Court for judicial review of the process by which the decision was made. There is a strong case for a revised legal system that gives preliminary screening of a Judicial Review application at a much earlier date, with only the very few progressing to a full judicial review where grounds for judicial review are determined at that early stage.

#### **10. Develop a Strong Governance Process**

Good governance leads to the development and management of consistent, cohesive policies and decisions regarding the infrastructure planning for the state. The re-establishment of an Independent Advisory Body for Strategic Infrastructure Projects, similar to An Foras Forbatha which was wound up in 1998, could ensure more long-term thinking about Ireland's infrastructure needs, and in particular how it can best be translated into land use patterns – for example the creation and identification of spatial infrastructure corridors that can be incorporated into a Development Plan Review with appropriate policies for realisation of such corridors. A Joint Oireachtas Committee for Strategic Infrastructure could also generate greater input from our elected officials.

Similarly, the provision of a 'one stop shop' for permitting strategic infrastructure is required. Much of the current difficulty with the delivery of large strategic infrastructure projects relates to the multiplicity of state agencies involved and permits required. The permits often overlap in terms of items of responsibility, and confusion frequently arises over the role of An Bord Pleanála versus other agencies (commonly the EPA, DoEHLG, DCENR, Energy Regulator etc).

Finally, strategic Infrastructure legislation is only one component of the decision making system. It should also reinforce that decision making also requires a coherent set of policies in the relevant areas of infrastructure, environment and economic planning to act as a platform upon which reasonable and far sighted decisions can be made.

Efficient planning procedures are essential to stimulate economic growth at both the micro and macro level. All planning authorities must place the needs of the economy on an equal footing with environmental concerns and public participation to ensure that all businesses, all communities and all people benefit from such growth.

For further information on any of the points raised in this submission, please contact Sean Murphy at [sean.murphy@chambers.ie](mailto:sean.murphy@chambers.ie) or Barry Peak at [barry.peak@chambers.ie](mailto:barry.peak@chambers.ie)

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