

# STRATEGIC SPATIAL PLANNING IN IRISH LOCAL COMMUNITIES

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**Abstract:** This article provides a comprehensive overview of the planning system in Ireland with specific respect to the Planning Acts, the production of development plans, and the different types of planning application including Strategic Infrastructure Developments. Following this, the case of the Rioja Estates retail outlet centre in Carrigtwohill, County Cork, will be examined in light of contemporary issues in Irish planning. The study aims to identify and analyze the particularities regarding strategic planning at the local level, in particular, the way in which the spatial planning process was managed in Irish local communities. The research methodology considered is the case study based on the document analysis (administrative documents and strategic documents of local authorities of Cork County and public statements of officials in the local press) in the context of which the opportunity to build a retail outlet centre in Carrigtwohill was analyzed. Specific attention will be paid throughout the article to the role of the relatively new Office of the Planning Regulator, which was established in 2019 to oversee the correct implementation of planning policy by local authorities, and which played a pivotal role in the Rioja Estates case.

**Keywords:** strategic planning, spatial planning, urban planning, local authorities, local communities

**JEL Classification:** L38, O21, R58.

**DOI:** 10.24818/ARAS/2022/3/3.01

## 1. INTRODUCTION

The Irish planning system is characterized by a division between the policy level and the implementation level. At the policy level, decisions are made by elected members of city and county councils, who are responsible for approving Development Plans and Local Area Plans. At the implementation level, it is the job of bureaucrats within the thirty-one planning authorities to assess and approve or refuse individual planning applications in accordance with the wishes of councilors as expressed through the Development Plan. At the core of the Irish planning system is the Local Government (Planning and Development) Act 2000 which set out to modernize and revitalize planning in Ireland. This Act introduced for the first time an ethos of sustainable development into Irish planning law, as well as a new strategically focused approach aiming to connect the dots between local, regional, and national planning issues (Williams and Nedović-Budić, 2020).

At the policy level on a macro scale, the most important document used by local authorities to determine the viability of planning applications is the city or county development plan. Development plans were described by the Irish Supreme Court as 'an environmental contract between the planning authority, the council, and the community embodying a promise by the council that it will regulate private development in a manner consistent with the objectives stated in the plan' (Williams and Nedović-Budić, 2020). Since the Local Government (Planning and Development) Act, 1963, development plans have been produced every six years by local authorities. It is a written document supplemented by maps containing mandatory and discretionary objectives for land zoning within the jurisdiction of the local authority. With over-zoning becoming a problem in the early 2010s, the 2010 Planning and Development (Amendment) Act sought to reduce this by introducing an evidence-based mechanism for land zoning rather than zoning being done arbitrarily (Grist, 2012).

The study aims to identify and analyze the particularities regarding strategic planning at the local level, in particular the way in which the spatial planning process was managed in Irish local communities. The research methodology considered is the case study based on the document analysis (administrative documents and strategic documents of local authorities from Cork county and public statements of officials in local press) in the context of which the opportunity to build a retail outlet centre in Carrindtwohill was analyzed.

## 2. PARTICIPATIVE DIMENSION OF THE IRISH PLANNING SYSTEM

The literature presents the implications and advantages of ensuring a participative dimension of the strategic planning and decision-making processes in local government (Cujbă, 2022; Voinea și Profiroiu, 2022), in the context of ensuring the transparency and a democratic governance system in local communities (Androniceanu, 2021). The strategic planning process in Romanian local communities reflects a surrogate for public consultation. As Hințea, Profiroiu and Țiclău (2019) specify, the consultation refers to a public debate held at the end of the strategic planning process, when the strategy is in its final form with input from outside being minimal and having little to no impact on the actual outcome. Therefore, the study aims to identify and analyze the best practices regarding strategic planning at the local level, in particular the way in which the spatial planning process was managed in Irish local communities. In this sense, the research methodology considered the analysis of the administrative documents drawn up on the occasion of the "dispute" between the investor, Rioja Estates, and the local and county authorities, but also of the strategic documents in the context of which the opportunity to make the retail outlet centre in Carrindtwohill was analyzed.

The process for a new development plan begins in Ireland four years after the adoption of the current plan, with notice being given to bodies such as An Bord Pleanála (ABP), neighbouring local authorities, the relevant regional authority, the Minister, prescribed bodies, and local newspapers. This marks the beginning of an eight-week consultation process in which submissions are welcomed from the public and from the bodies listed above, ending with a report from the Chief Executive Officer of the local authority to the councillors. A draft development plan is then written, and submissions are again welcomed for a further ten weeks on the draft plan. Councillors are then given a further twelve weeks to consider all the documents together. The new plan comes into effect four weeks from the day it is accepted by councillors (Grist, 2012).

If a plan needs to be varied after it has been adopted, the notice of the proposed variation is sent to the same bodies listed above and to local newspapers to notify the public. The submission timeframe is limited to four weeks, which is again followed by a Chief Executive report, and the final decision rests with the councillors (Grist, 2012). Local area plans follow a very similar structure to development plans, but are more localised in nature, focusing on towns with populations larger than 5000. They do not have a set life span, although they must be reviewed after six years (Grist, 2012).

The city or county development plan forms the basis for decision making at the implementation (micro) stage of the Irish planning system. Individual planning applications are submitted to local authorities and may take four different forms. Outline planning permissions are typically made by people who wish to gauge the development attitude of the planning authority without investing heavily in architects and engineers reports. As a second stage to this, the subsequent permission is sought and, if granted, constitutes planning permission along with the prior stage. A standard planning application skips the outline permission stage and is the most popular type of application used. Finally, retrospective planning permission is used by people who have constructed something without permission and are requesting leave to maintain the structure (Grist, 2012).

To apply for a standard planning permission, applicants must first provide two weeks' notice of their intent to apply in local newspapers and on a site notice legible from a public road. The content of their application must include six copies of each document, such as a copy of the newspaper notice and site notice, architects' drawings, an Environmental Impact Statement if necessary, and all the required forms and paperwork. The public consultation process then begins for a period of five weeks, after which a professional planner will report on the application to the Chief Executive who makes the final decision. Since the 2000 Act, the right of appeal has only been given to people who made a submission during the first consultation. Decisions are normally given within eight weeks of the application, or within twenty weeks at the absolute latest (Grist, 2012).

Decisions of local authorities may be appealed to ABP; however, the right of appeal is reserved for those who made an observation in the initial stage. Appeals must be received within four weeks, during which an oral hearing may also be requested if it is believed that the appeal can be better delivered orally. When deciding on appeals, the nine members of the board and the chairperson must have consideration to the same issues as the planning authority. ABP decisions can be further appealed to the Irish High Court (Grist, 2012).

### **3. STRATEGIC INFRASTRUCTURE DEVELOPMENTS: ADVANTAGES AND DISADVANTAGES FOR THE IRISH PLANNING SYSTEM**

The Planning and Development (Strategic Infrastructure) Act 2006 signified a turning point in Irish planning as it provided ABP with a host of new powers relating to Strategic Infrastructure Developments (SID). ABP was originally set up in 1976 to determine appeals on planning decisions by local authorities, however, its function has changed in recent years to effectively being a planning authority. Now there exists a subdivision of the Board of ABP consisting of a chairman, a deputy chairman, and three ordinary members who are tasked with deciding on SID applications.

Applicants must first consult with the board to determine whether their application qualifies for SID. These applications include infrastructure that is of national importance, such as gas pipelines, electricity systems, railways, and major developments such as waste management systems. Public participation in this process is minimal, with the only requirement being that notice be published before the application is made. An oral hearing may or may not be conducted at the discretion of the board, and a decision must be made within eighteen weeks, with the possibility for extensions. The Board also has discretion about whether it will grant permission for a development that materially contravenes the development plan. Although the decision cannot be appealed on planning grounds, decisions can be appealed on judicial grounds, known as judicial review (Grist, 2012).

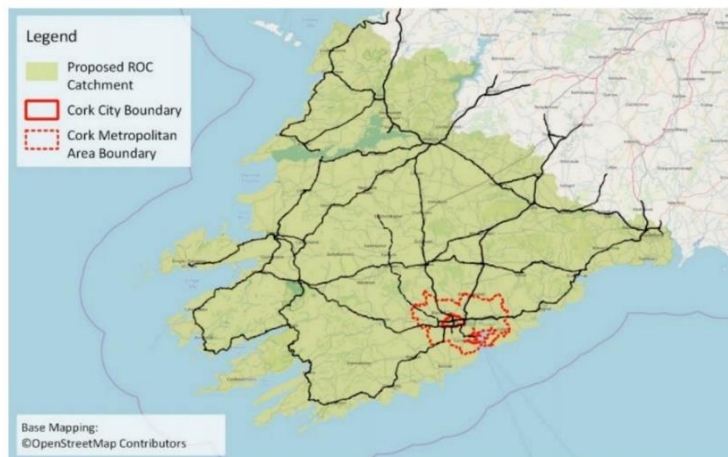
Some critics argue that SIDs have resulted in a de-democratisation of the Irish planning system. The perceived fast tracking of planning applications and overstepping of local authorities has made Ireland a more attractive investment opportunity for international developers, who would have previously identified Ireland as problematic because of the hurdles presented by the planning system (Lennon and Waldron, 2019). Perceived delays in the planning process constitute a barrier for international investors, who deemed these barriers unwarranted and capricious, potentially throwing the commercial viability of a development into question. At a local level, some developers felt that restrictions were unnecessary and arbitrary, with the third-party appeals process deemed problematic when it was in fact meant to be democratic. Williams and Nedović-Budić (2020) argued that streamlining of planning applications undermines local autonomy, since local authorities are no longer the decision makers on what gets built in their area.

In light of concerns about the proper functioning of the planning system and about its democratic nature, the Office of the Planning Regulator (OPR) was established in 2019 in order to independently assess the forward planning and zoning decisions made by local authorities, review the systems and procedures used by the planning authorities and ABP, and to provide the organisation of national research, training, and education programmes.

### **4. THE CASE OF RIOJA ESTATES CARRIGTWOHILL RETAIL PARK**

A relevant case in the light of recent changes in Irish planning system is the case of the commonly called East Cork Kildare Village proposed by Rioja Estates. Rioja Estates is one of the largest retail outlet developers in Europe, responsible for more than 380,000 sqm of outlet village space across the continent. In 2019, Rioja Estates indicated their interest in constructing a retail outlet village in Carrigtwohill, County Cork. This retail park would be similar to the highly successful Kildare Village site in County Kildare, offering end-of-season stock from premium brands at discounted prices. The retail park would consist of individual boutique stores, car parking, and restaurant and toilet facilities. Rioja Estates claim that there is only space for one more retail outlet village in Ireland and that the southern region of the country is best placed to receive a new center of this kind.

Rioja Estates (2019) argue that the southern part of the country is underserved by Kildare Village and that Cork would be the best location for a new centre due to its status as Ireland's second city. They further justified their choice of Carrigtwohill due to robust transport links through the N25 and the Cobh ferry terminal and its tourist links established nearby, such as Kinsale, Cork City, Cobh, and Youghal.



**Figure 1. Catchment area of proposed Rioja Estates retail outlet**

*Source: Waterford City and County Council (2019)*

Rioja Estates argues several benefits from establishing the new retail outlet centre in Cork, beginning with an estimated 1200 jobs to be provided on site. The brunt of their argument focuses on tourism, and they cite research that tourists spend two times as much on shopping as they do on experiences while on holiday (Rioja Estates, 2019: 11). They also argue that the emerging Asian tourist market will bring a significant surplus of tourists to Ireland and that the luxury shopping experience offered by a retail outlet centre would complement the traditional tourist experience already offered in County Cork.

The first issue encountered by Rioja Estates was that the proposed site that they wish to build on is not zoned for retail use. In November 2019 Cork County Council published a notice that they intended to vary the County Development Plan to facilitate the outlet village and opened the variation to public consultation. Among the submissions received was a letter from the OPR which took issue with the proposed variation. The OPR argue that the Council did not give enough regard to national retail guidelines and that the variation was premature pending the publication of the new joint retail strategy between Cork County Council and Cork City Council (Office of the Planning Regulator, 2019).

Significant concerns were also raised from local environmental groups on the increased traffic along the N25 corridor and on the environmental impact of this traffic. Cork City Council also objected against the variation, arguing that this development would negatively impact locally owned businesses and boutiques. In their submission, Cork City Council specifically referenced the fact that there exist several empty retail units in the city centre, such as the formerly Debenhams outlet, in the north Main Street shopping centre, and in the Merchants Quay shopping centre. The City Council argued that business interests would be better served by these units being re-opened (Cork City Council, 2019; O'Regan, 2021).

Despite these concerns, in January 2020, Cork County councillors voted overwhelmingly in favour of the variation. However, in February 2020, before the variation could be made, the OPR formally recommended to Minister of State at the Department of Housing Damien English that he issue a draft directive discouraging the Council from pursuing their variation under Section 31 of the 2000 Act. This was one of the first times that the OPR involved itself in such a high-profile case, garnering national attention and making this an important test case. Following a draft direction from Damien English in March 2020, Cork County Council reopened public consultation in May 2020.

Following a new government formation, in December 2020, the new Minister Peter Burke delivered the direction ordering Cork County Council to backtrack on its proposed variation. This angered local councillors, who

perceived these actions as a usurpation of local democracy. Cork County Council subsequently brought the matter to the High Court in February 2021, seeking a judicial review of the decision of the Minister with the OPR as a notice party. In November 2021, Justice Humphreys delivered the decision of the Court, ruling in favour of Cork County Council (O'Regan, 2021; Cork County Council -v- The Office of the Planning Regulator [2021] IEHC 683).

In their submission to the variation consultation, Cork City Council argues that the proposed Rioja Estates outlet centre will not have significant benefits to neighbouring towns such as Middleton, Carrigtwohill, and Youghal and will in fact drive business away from town centres (Cork City Council, 2019). This submission highlights the only other retail outlet village in the Republic, Kildare Village, as an example of the potential negative consequences of building an outlet village so far away from the city centre in a location which is only accessible by car. The City Council state that Kildare County Council's experience with Kildare Village has been largely negative as customers simply use the motorway to access the centre and not visit Kildare itself, choking opportunities for commercialism in the town centre. Cork City Council (2019) further state that Kildare County Council has now needed to take retrospective action to redress this imbalance.

However, Cork County Council's competing interest is found in the potential for the increase in commercial rates from Rioja Estates. While the outlet centre would serve a catchment area much larger than County Cork itself (Figure 1), the commercial rates would remain with the County Council and would prove a lucrative source of income. It is important to remember that Cork County Council, which does not have a town centre, is at a disadvantage in the area of retail and commercial rates. The income from the commercial rates could then be spent on public services and infrastructure to benefit the greater population.

Secondly, this case study presents us with an interesting viewpoint on the topic of balance of power between local and central government. While planning oversight is important, it is also important that local authorities have autonomy over their jurisdictions and that the wishes of democratically elected councillors are respected (Lennon and Waldron, 2019). It can be argued that the intervention of the OPR was a usurpation of local democracy due to a difference of opinion. As discussed by Justice Humphreys, both perspectives are understandable. On the one hand, the OPR and the Minister were of the belief that a new joint retail strategy should be conducted before any land was rezoned for retail purposes, which is an understandable viewpoint. However, Cork County Council clearly demonstrated that they had regard to ministerial guidelines, which is the minimum that they are required to do, and as such did not do anything illegal. Justice Humphreys highlights that Cork County Council were not required to wait for a new retail strategy, which could have had the outcome of prohibiting the rezoning (Fox-Rogers and Murphy, 2014).

## CONCLUSIONS

Recent developments in Irish planning have provided analysts with much interesting content to discuss and debate. The introduction of Strategic Infrastructure Development opened up an exciting debate about the intersection between planning and democracy and allowed a space for the planning role of local authorities and central government to be argued. The Rioja Estates case exemplifies this dichotomy between local and national government and the debate between which should have greater power over development control and proves a fascinating test case for future applications.

Marking the emergence of the OPR as an oversight and regulatory body, this case is highly significant for Irish planning despite a planning application having not yet been made. This case offers us some incredibly important insights into the nature of the Irish planning system and its participative dimension. In particular, two aspects are brought into sharp focus by this case study: first, the competing interests that exist between neighbouring local authorities; and second, the issue of balance of power between local government and central government.

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