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Suzie Cave

Zoning for Social Housing

The following paper looks at the zoning of land for social housing in other jurisdictions, such as the Republic of Ireland, England and Scotland.

Republic of Ireland

Over the past decade, there has been legislative emphasis on increasing the supply of social housing. According to a 2004 report by the National Economic Social Council (NESC) the reduction in social housing provision in the 1980s and the sale of public land banks greatly reduced the role of the local authorities in the overall land and housing system. Increasing pressure of access and affordability prompted a revival of social housing provision in the 1990s. But that increase in supply was constrained by the high price of land. In that context, the adoption of Part V of the Planning and Development Act 2000 can be seen as an attempt to achieve a stronger supply of social and affordable housing.¹

In the Planning and Development Act, 2000:

- Each planning authority is required to make a development plan every six years. A development plan is to 'set out an overall strategy for the proper planning and sustainable development of the area' and to include **provisions for zoning**,

¹NESC, Housing in Ireland: Performance and Policy (2004) <http://www.nesc.ie/dynamic/docs/NESCHousingReport.pdf> (Pg 191)

provision of infrastructure, conservation and protection of the environment and the integration of the planning and sustainable development of the area.

- A planning authority must ensure that **‘sufficient and suitable land is zoned for residential use..to meet the requirements of the housing strategy and to ensure a scarcity of such land does not occur** at any time during the period of the development plan’(s95 (1) (a))
- **Strategic Development Zones (SDZs)** are to facilitate more efficient and integrated planning of large-scale housing developments. These zones can be designated by the Government on foot of a Ministerial Order, where it is deemed to be of importance to the economic and social development of the state, and following relevant consultation with the relevant development agency or planning authority. (s167 (1))

The NESC argued that the core social housing stock had fallen to a level that was too low in comparison to the composition of the housing needs of the population². The Council’s overall view at the time was that the need for social housing was unlikely to diminish, given likely economic and social developments. One of the main concerns with the NESC was the scale of increase in the overall stock of social housing necessary to provide an adequate supply.³ In fact the NESC suggested that increasing the social housing stock to 200,000 by the end of 2012 (an increase of 9000 units per year) would be an appropriate response to the demand.⁴ The increase in the zoning of land was also highlighted in suggested policy approaches by the NESC, in order to remove its scarcity⁵

The current situation

The encouragement over the last decade on the zoning of land to increase the supply of social housing has clearly had an impact. According to an article by the Irish Independent, local authorities in the ROI rezoned enough land during the property boom, to build more than a million homes that were not needed. Councils rezoned more than 44,000 hectares of land for housing over the past ten years, an excess of 31,633 hectares.⁶

This is enough land to build almost 1.5 million houses and apartments⁷, and based on information from the Department of the Environment, the Irish Independent has highlighted that only 400,000 units are actually needed up to 2016.

² Ibid (Ch 3)

³ Ibid (Ch 4)

⁴ Ibid (Pg 152)

⁵ Ibid (Pg 191)

⁶ Irish Independent, ‘Councils Zoned Land for Million Surplus Homes’ www.independent.ie/national-news/councils-zoned-land-for-million-surplus-homes-2373654.html

⁷ Far more than the suggested development in 2004 by the NESC of 200,000 by 2012.

Questions have been raised over the complete lack of regulation that enabled councillors to deem vast tracts of land suitable for housing. An Bord Pleanála chairman John O'Connor criticised the extent of the rezoning, saying that excessive and unsustainable zoning of land had been a contributor to the property bubble and its aftermath.

According to NISRA, in their 2010 report 'A Haunted Landscape: Housing and Ghost Estates in Post -Celtic Tiger Ireland'⁸:

- Planning did not act as the counter-balance to the excesses of the building frenzy, zoning too much land and giving out too many planning permissions. The result was oversupply of houses across the whole country, with some counties particularly badly hit.
- Permissions and zoning have been facilitated by the abandonment of basic planning principles by elected representatives on the local and national stage and driven by the demands of local people, developers and speculators, and ambitious, localised growth plans framed within a zero-sum game of potentially being left behind with respect to development.
- Central Government not only failed to adequately oversee, regulate and direct local planning, but actively encouraged its excesses through tax incentive schemes. In fact the Report recommends that future tax incentive schemes should be evidence-informed, fully debated and have set targets.
- The process of land zoning should be evidence-based and zonings time delimited. Housing and patterns of development should be based on local need, not greed, and guided by the National Spatial Strategy and not localism and zero-sum comparisons.

In response to the crisis, in December 2010 the Environment Minister John Gormley enacted the Planning and Development (Amendment) Act 2010 which:

- Provides a stronger statutory link between Regional Planning Guidelines (RPGs) and the National Spatial Strategy (NSS), these must have regard to population targets which are to be updated by the Minister.
- Introduces the inclusion of an evidence-based "Core Strategy". These must take account of any policy in relation to national and regional population targets- RPGs are a key enabler for the preparation of Core Strategies because they translate overall national and regional population targets and estimates of future housing requirements into city and county council figures.
- The Core Strategy must also provide the policy framework for local area plans (LAPs) in relation to zoning at LAP level.

⁸NISRA (2010) *A Haunted Landscape: Housing and Ghost Estates in Post-Celtic Tiger Ireland*
<http://www.nuim.ie/nisra/research/documents/WP59-A-Haunted-Landscape.pdf>

- The Core Strategy of local authority development plans must also outline the location, quantum, and phasing of future development, the detail of transport plans, retail development and policies for development in rural areas. This is to secure a strategic and phased approach to zoning.⁹

England

Housing Planning Policy Statement (PPS3) doesn't specifically mention zoning as such but does outline the process by which suitable land sites for housing should be identified. It suggests that at the local level, Local Development Documents should set out a strategy for the planned location of new housing which contributes to the achievement of sustainable development. Local Planning Authorities should, working with stakeholders, set out the criteria to be used for identifying broad locations and specific sites taking into account¹⁰:

- The spatial vision for the local area (having regard to relevant documents such as the Sustainable Community Strategy) and objectives set out in the relevant Regional Spatial Strategy.
- Evidence of current and future levels of need and demand for housing as well as the availability of suitable, viable sites for housing development.
- The contribution to be made to cutting carbon emissions from focusing new development in locations with good public transport accessibility and/or by means other than the private car and where it can readily and viably draw its energy supply from decentralised energy supply systems based on renewable and low-carbon forms of energy supply, or where there is clear potential for this to be realised.
- Any physical, environmental, land ownership, land-use, investment constraints or risks associated with broad locations or specific sites, such as physical access restrictions, contamination, stability, flood risk, the need to protect natural resources e.g. water and biodiversity and complex land ownership issues.
- Options for accommodating new housing growth to include, for example, re-use of vacant and derelict sites or industrial and commercial sites for providing housing as part of mixed-use town centre development, additional housing in established residential areas, large scale redevelopment and re-design of existing areas, expansion of existing settlements through urban extensions and creation of new freestanding settlements.
- Accessibility of proposed development to existing local community facilities, infrastructure and services, including public transport. The location of housing should facilitate the creation of communities of sufficient size and mix to justify the development of, and sustain, community facilities, infrastructure and services.

⁹ For more information see DEHLG, *Implementation of the Regional Planning Guidelines Best Practice Guidance* (2010) (p.9) <http://www.environ.ie/en/Publications/DevelopmentandHousing/Planning/FileDownload,1605,en.pdf>

¹⁰ PPS3:Housing <http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement3.pdf> (pg 14-16)

- The need to provide housing in rural areas, not only in market towns and local service centres but also in villages in order to enhance or maintain their sustainability. This should include, particularly in small rural settlements, considering the relationship between settlements so as to ensure that growth is distributed in a way that supports informal social support networks, assists people to live near their work and benefit from key services, minimise environmental impact and, where possible, encourage environmental benefits.
- The need to develop mixed, sustainable communities across the wider local authority area as well as at neighbourhood level.

A key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed:

- The national annual target is that at least 60 per cent of new housing should be provided on previously developed land. This includes land and buildings that are vacant or derelict as well as land that is currently in use but which has potential for re-development.
- When identifying previously-developed land for housing development, Local Planning Authorities and Regional Planning Bodies will, in particular, need to consider sustainability issues as some sites will not necessarily be suitable for housing. There is no presumption that land that is previously-developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed.
- At the regional level, Regional Spatial Strategies should set a target for the proportion of housing development that will be on previously-developed land over the plan period.
- At the local level, Local Development Documents should include a local previously-developed land target and trajectory (having regard to the national and regional previously-developed land target in the Regional Spatial Strategy) and strategies for bringing previously-developed land into housing use.¹¹

Scotland- Planning for affordable local housing

Zoning more land

According to the Committee for Rural Affairs and Environment councils in Scotland have some limited powers to plan specifically for affordable local housing. The

¹¹ For more information see PPS3:Housing

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement3.pdf>

Committee wished to ascertain how these powers were being applied and whether giving councils any extra powers could add to their effectiveness.¹²

A developer giving evidence to the Committee observed that one way to make housing cheaper would be to zone more land for it.¹³ The Chief Planner indicated that the evidence for it was not entirely clear-cut¹⁴ and that land designated for housing will not always end up being used for this purpose. In addition, as witnesses from the social rented sector pointed out, social landlords are generally at a disadvantage against commercial developers in any situation where land is sold in a free market. This would presumably hold true even where land prices fell because of an increased supply. Zoning more land for housing is therefore not a panacea and is not without potential disadvantages (land being a finite resource).

In response to this the **Committee stated that they “would encourage councils to zone more land for housing, if councils consider that they can do so without detriment to other important land-use priorities. It is unclear whether zoning more land would, in itself, make any more than a marginal difference to house prices, but it should be seen as a necessary first step in the change in planning culture that the Committee considers is needed.** Councils should continue to be mindful, however, that their main priority in drawing up local plans should be to ensure that the most appropriate land is zoned for housing in the first place.”

Zoning the right land

According to the Committee there appears to be no shortage of space in much of rural Scotland and yet there is a widespread perception that land for housing is hard to come by. The Committee has sought to examine this and is of the opinion that the solution is not simply to zone more land for housing, as there appear to be obstacles that prevent rural land that has been zoned for housing, actually being released for that use. For example:

There is evidence of land zoned for housing over decades in successive local plans remaining undeveloped, in some cases because the land was never apparently suitable or economically viable for housing in the first place.

Homes for Scotland, the representative body for the building industry told the Committee that there had been instances of councils designating land for housing, without first checking with utility providers whether the necessary infrastructure could

¹² See the Committee Report 2009 <http://www.scottish.parliament.uk/s3/committees/rae/reports-09/rur09-05.htm#14>

¹³ Andy Pearson, Tweed Homes. (Scottish Parliament Rural Affairs and Environment Committee, *Official Report*, 25 June 2008, Col 888.) The witnesses from Homes for Scotland, the umbrella body for developers argued that if there was to be any chance of the Government meeting its ambitious medium-term target of 35000 new houses per year, much more land needs to be zoned in local plans. (Scottish Parliament Rural Affairs and Environment Committee, *Official Report*, 28 May 2008, Col 776. For more information see: http://www.scottish.parliament.uk/s3/committees/rae/reports-09/rur09-05.htm#_ftn51

¹⁴ Scottish Parliament Rural Affairs and Environment Committee, *Official Report*, 25 June 2008, Col 857

be realistically provided there. It was only much further down the line, when developers were seeking to get projects to work, that such problems would become apparent.¹⁵

According to the Committee's Report 2009, the Highland Housing Alliance cited a report which stated that around **"30 per cent of land zoned in local plans was unable to be developed,** because either there were access and legal problems or the landowner simply did not want the land to be developed. The land might have been included in the plan without properly consulting the landowner to ask whether they were serious about moving it into development."

In fact the Committee suggested that it would be good practice for councils to carry out regular audits of land zoned for housing to ascertain whether it continues to be appropriately designated (or was inappropriately designated in the first place), and, if not, to re-designate it. This should be done independently of, and (the Committee would suggest) more frequently than, the process of revising local plans.

Zoned land and private landowners

There is no legal obligation on landowners to make land zoned for housing available for development. In practice, the attitude of local landowners towards development can have a huge effect on the availability of affordable housing. According to the Committee this is particularly the case where much of the land surrounding a community is concentrated in the hands of only a few people, or belongs to just one estate, as is often the case in rural Scotland.

The Committee has made clear that there is a mixed situation in Scotland, where some landowners form effective partnerships with other local housing stakeholders, working together to help secure affordable accommodation in areas of high need. Others, however, do not, to the extent even of allowing existing properties to lie empty and fall into disrepair rather than lease or sell them to local residents.¹⁶

As a general conclusion, however, **the Committee has found that the lack of zoned land being made available for affordable development is one of the biggest difficulties facing the rural housing market.**

¹⁵ See the Committee Report 2009 <http://www.scottish.parliament.uk/s3/committees/rae/reports-09/rur09-05.htm#14>

¹⁶ For more information on obstacles to releasing zoned land for development, and for possible incentives to release private land see the Committee Report (2009) (para 111 to 141). <http://www.scottish.parliament.uk/s3/committees/rae/reports-09/rur09-05.htm#14>