

Symposium: The Role of Planning in Ensuring Housing Supply

**Planning for Housing in Ireland:
Historical Legacies and New Challenges**

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1. INTRODUCTION

This paper examines the historical legacies that have shaped the planning system in Ireland, particularly planning for house building, and how these have affected our ability to provide sufficient new homes to meet contemporary housing needs shaped by our population growth, changing population structure and shrinking household size. The paper draws on the analysis of planning for housing conducted by the Housing Commission, of which I was a member, and its recently published examination of the key housing challenges the country faces and comprehensive plan for addressing these (Housing Commission, 2024). I hope this paper will also provide useful contextual information for the more focused analyses of the challenges in the contemporary planning system that will be the subject of the papers presented by Niall Cussen and Stephen Purcell. The paper is organised into three sections. These examine:

- Where have we come from? The historical legacies that have shaped planning for housing in Ireland.
- Where are we now? The contemporary planning system that has been shaped by these legacies and reforms introduced after the global financial crisis in 2006-07.
- Where should we go from here? The reforms required to ensure our planning system meet the needs of a rapidly growing population.

2. BIRTH OF THE IRISH PLANNING SYSTEM: 1963-1980

The modern Irish land use planning system was established in the early 1960s – by the Local Government (Planning and Development) Act 1963. While individual local authorities, had engaged in planning of individual housing developments and in some cases whole districts prior to this particularly as part of inner-city renewal and slum clearance programmes, this activity was *ad hoc*, uneven and largely confined to large urban areas. The 1963 Act established comprehensive national land use planning arrangements for the first time. It required each local authority to publish a development plan setting out its spatial plans for future land use and construction in its operational area. In urban these plans would be underpinned by ‘zoning’ of land for uses, e.g. commercial or amenity use, zoning was not compulsory in rural areas. Adherence to the development plan would be controlled by means of planning permissions and development plans would be informed by a hierarchy of regional and national spatial plans, as appropriate (Bannon, 2016).

This legislation was very heavily influenced by the Town and Country Planning Act, 1947 which established the modern UK planning system. Introduced by the radical Labour Party government which came to power at the end of World War II, the 1947 Act also regularised the *ad hoc* (but far more developed than its Irish counterpart) land use UK planning system, which had emerged during the early 20th Century (Hallett and Williams, 1988). However, the provisions of the 1947 Act also reflected detailed reviews of the planning system that had been conducted in the years preceding and during the War and were linked with Labour’s wider programme of expansion of the UK welfare state which was implemented during this period. Thus, for instance, the 1947 Act and associated legislation afforded government strong powers to government to compulsorily purchase land at existing use value for the construction of social housing and new towns (Cox, 1984; Weiler, 2013).

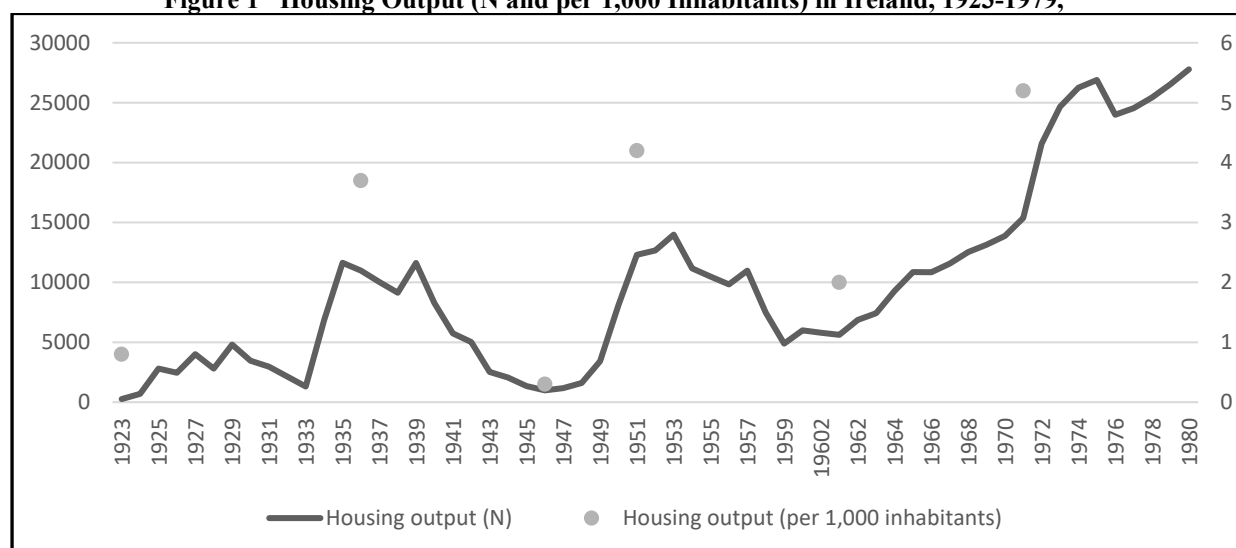
While the Irish system was closely modelled on its UK counterpart in theory in practice the application of these new land use planning frameworks differed very significantly between both jurisdictions. In contrast to the UK, development planning was very slow to take off in Ireland – many rural local authorities did not regularly revise

their development plans until the 1980s, although practice was stronger in cities (Convery and Schmid, 1983). Development control rules were also applied in a more liberal fashion in Ireland than in the UK and regional and national spatial planning was immeasurably weaker in the former compared to the latter (Bannon, 1989). While the UK dealt with the severe post-war housing shortage by building an impressive network of new towns across England during the 1950s and 1960s, Ireland only managed to implement a small part of the plan for construction a network of new towns around Dublin devised by the British planner Myles Wright in the 1960s (Wright, 1967; Hallett and Williams, 1988). New towns were built at Tallaght outside Dublin and Shannon, outside Limerick (MacLaran and Punch, 2004). Furthermore, Ireland's sole effort at national spatial planning during the 20th century – Colin Buchanan and Partners' (1969) report on the physical development policies required to support economic development, which proposed concentrating growth in Dublin and eight other centres - was largely ignored by government (Breathnach, 2019). Garvin, (2004) blames this on the overwhelming localism of the Irish political system, which renders positive discrimination in favour of one locality over another practically impossible. Critically, from the perspective of the discussion at hand, the Irish planning system did not require local authorities to assess the need for housing in their operational area and plan accordingly until the enactment of the Planning and Development Act, 2000.

In terms of the implications of these arrangements for housing supply, they contributed to a strong contrast between both countries. Compared to the pre-war decades, housing output declined somewhat in the UK in the decades that followed the enactment of the 1947 legalisation (although it was much higher in the latter period than it has been since the 1980s) (Watling and Breach, 2023). As Figure 1 below demonstrates, the introduction of the 1963 Act appears to have placed no similar constraints on housing output in Ireland. In absolute terms output expanded very significantly from the early 1960s in response to the first significant period population and economic growth since the foundation of the state and the growth in the availability of capital for housing provision particularly from non-governmental sources in the form of building societies and banks (Bielenberg and Ryan, 2013). Although this supply elasticity appears less impressive when presented in terms of output per 1,000 inhabitants.

However, in the Irish case, this rising housing output also generated problematic social and economic outcomes. Increased output consisted mainly of one-off rural housing and low-density suburban housing estates on the edges of towns and cities. Whereas the population of inner-Dublin declined steadily throughout most of the Twentieth Century and, for much of this period local, authority housing was only new housing built in the inner-areas of the city (National Economic and Social Council, 1981). These developments were to some extent the intended results of planning policy – the Myles Wright's plan for the Dublin region supported low density, car dependent, suburbanised development – but were primarily the result of lack of planning and the weakness of arrangements to enforce planning decisions (MacLaran and Punch, 2004). The latter is the case for one off rural housing, for instance, and failure to implement the Buchanan report and thereby funnel growth into selected urban centres. It is also the case that, while rising housing output undoubtedly brought significant benefits, these benefits were primarily privatised – they accrued to individual home buyers and the building industry. While the significant costs, in terms of negative implications for the cost and viability of public services, energy, public transport and waste infrastructure and the environment, were largely socialised.

Figure 1 Housing Output (N and per 1,000 Inhabitants) in Ireland, 1923-1979,



Source: Central Statistics Office (various years); Norris, (2016)

3. THE DEVELOPMENT OF THE IRISH PLANNING SYSTEM: 1990s-2007

Apart from the establishment of an Bord Pleanála in 1977 (which replaced the minister as the adjudicator for planning appeals), few significant structural changes were made to the land use planning system for two decades after the 1962 Act. However, development planning practice changed from the late 1980s – it strengthened significantly from this time as local authority development plans across the country were regularly reviewed and updated. Furthermore, the Planning and Development Act, 2000 revised and consolidated the patchwork of incremental changes to planning legislation introduced in previous decades. The 2000 Act also required that local authority development plans to incorporate housing strategies which detail how future local housing demand will be met. In addition, Part V of the Act introduced ‘inclusionary zoning’ powers, which had long been used in the United States and the UK, into Ireland. Part V empowering local authority development plans to require that up to 20 per cent of private housing developments must be used for social housing or affordable housing for sale at below market value to low- and middle-income households (Brooke, 2006; Norris, 2006).

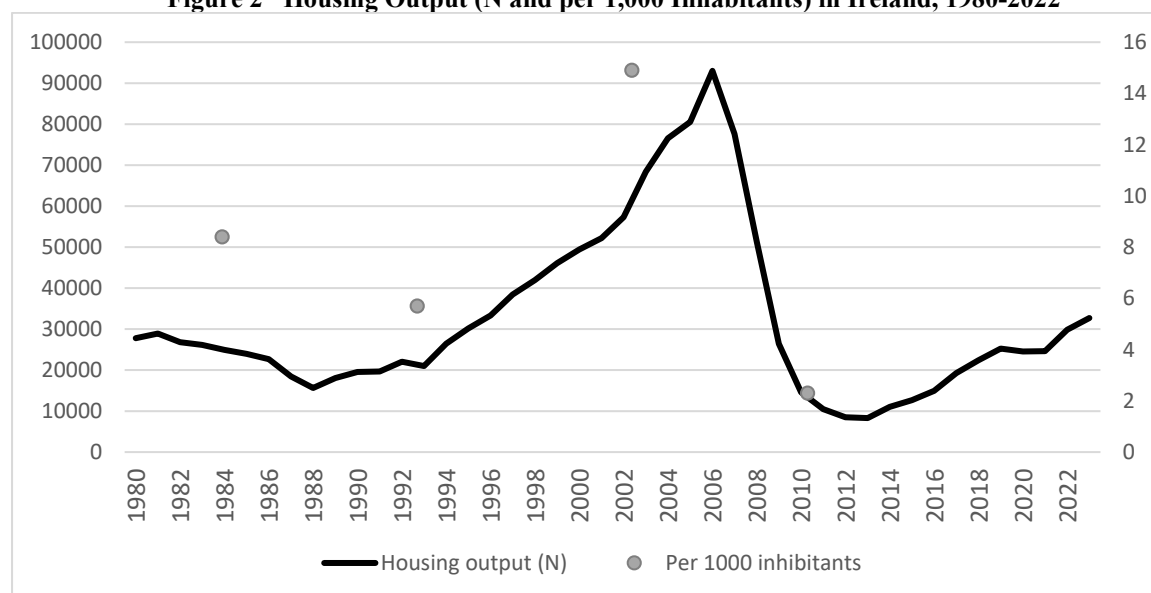
This period also saw the revival of national and regional planning efforts. A *National Spatial Strategy* (NSS) covering the period 2002 to 2020 was formulated in an effort to balance the distribution of population and economic activity across the country, and to divert housing demand away from Dublin (Department of the Environment and Local Government, 2002a). It designated the five cities in Ireland, together with several regional towns as engines of regional and national growth, toward which investment infrastructure, services and amenities should be directed.

In common with the preceding decades, however, theory differed very significantly from practice in land use planning between the 1990s and mid-2000s. Application of development control rules remained weak, particularly in rural areas, and one-off rural housing continued to account for a significant proportion of housing output during this period. Application of the *National Spatial Strategy* was also very weak. This in part reflected the fact that local authorities were under no legal obligation to ensure that the objectives of this strategy were reflected in their development plans and they regularly zoned land for development, far in excess of that specified in the regional guidelines on NSS implementation (Simons, 2003). However, continued political challenges in selecting some locations for ‘positive discrimination’ and, by implication, ‘neglecting’ others were also a significant contributory factor. For instance, Scott (2005) that ‘political pragmatism’ inspired the designation of too many growth centres in the National Spatial Strategy and questions whether these ‘may prove too many in a small economy to effectively develop clusters of economic growth ... needed to counterbalance the dominance of... Dublin’. Other commentators have pointed out that the pattern of growth centres identified in the National Spatial Strategy was contradicted by other significant spatial policies introduced at that time (Norris and Shiels, 2007; Bannon, 2016). This includes the civil central decentralisation strategy (three quarters of proposed locations for decentralisation of civil servants were not identified as growth centres in the NSS) and the ‘Section 23’ tax relief scheme which subsidised the construction and refurbishment of dwellings (and commercial development, but in practice the vast majority of investment was in housing) in designated locations. Introduced in the mid-1980s, the early phases of the latter programme were successful in driving the regeneration of inner-city neighbourhoods, in Dublin and Cork in particular. However, during the 1990s it was repeatedly extended in duration and geographical scope to include a large number of towns and villages around the country and five rural counties in the Northwest (Norris, Gkartzios and Coates, 2014). Thus Section 23 helped to drive residential development into areas not prioritised under the National Spatial Strategy. Concurrently the Mahon Tribunal, which was established in 1997 and reported in 2012, revealed corruption played a significant role in undermining good planning practice in Dublin County Council (Mahon, 2012).

In terms of the practical implications of this, as outlined in Figure 2, housing output trebled between the mid-1990s and early-2000s, driven by an enormous increase in the private capital available for house building via bank lending to house builders and buyers. By 2002 housing output in Ireland was 14.73 units per 1,000 inhabitants, compared to the EU average of just 4.25 per 1000 (Norris and Shiels, 2007). Despite the NSS objectives to concentrate into large urban centres and some successful efforts to encourage higher density development in Dublin, the patterns of low-density sprawl around cities and long-distance commuting into these cities for work which had commenced in the 1970s, continued and even strengthened in the 1990s and early 2000s. In 1999, for instance, 47.4 per cent of total housing output in rural areas consisted of detached dwellings in the open countryside (Department of the Environment and Local Government, 2002b). When the Celtic tiger boom turned into an economic and housing market bust of unprecedented scale from 2006, an element of oversupply became evident in some rural areas – particularly on the West coast and the five counties in the Northwest designated for inclusion in the Section 23 scheme. Whereas there is strong evidence of significant housing undersupply in Dublin during this period – it accounted for 28.7 per cent of the Irish population in 2002 but only 22.3 per cent of the total national housing output between 1994 and 2003 (Norris and Shiels, 2007). A report on housing completed by the National Economic and Social Council (2004) at the height of the housing boom identified under supply of a key cause of the greater affordability problems in the capital and of the increasing divergence between house prices there compared to other Irish cities.

The planning system made a significant contribution to this sub optimum distribution of housing output by failing to drive high density development and thereby more efficient use of scarce and expensive urban land in Dublin. Consistent problems were also evident in funding the provision of water, sewage and power infrastructure required for development in Dublin which impeded development, and these were made worse by the aforementioned planning corruption which resulted in the zoning of areas without infrastructure for housing, in preference to areas better served with infrastructure where housing could be built quickly. In addition, the Irish planning system remained far more permissive of development than its counterpart in the UK. Thus, in this context development flowed naturally into rural areas and green field sites on urban peripheries in Ireland because developing in these areas is inherently less challenging than in towns and cities. Whereas, in town or city centres suitable sites may have to be assembled by purchasing from several landowners, for instance, and developments are surrounded by local residents and businesses who may object to planning (Norris and Shiels, 2007).

Figure 2 Housing Output (N and per 1,000 Inhabitants) in Ireland, 1980-2022



Source: Central Statistics Office (various years); Norris, (2016)

4. THE MATURATION OF THE IRISH PLANNING SYSTEM: 2007-DATE

The period since the economic and fiscal crisis and the associated house price and construction bust which commenced in 2006-07 has seen the most radical reform of the planning system since its establishment in the 1960s (Donovan and Murphy, 2014). The most significant structural reforms made to the planning system in this period are the introduction of a clearer hierarchy of national and local plans and of new mechanisms to enforce adherence to this hierarchy. In addition, a series of related reforms have been made to planning procedures and operational guidelines which are intended to ensure national policy priorities are implemented in practice.

At the top of this hierarchy of plans is the *National Planning Framework* (NPF) which sets out the key goals of spatial development between 2019 and 2024 and details the land use planning arrangements that will underpin the National Development Plan (Government of Ireland, 2018). The HPF plans for population growth of one million people over the next two decades, half of which it aims to concentrate in the five cities (25 per cent in Dublin and 25 per cent in the other cities) and half in regional centres, towns villages and the countryside. These national level objectives are to be reflected in housing need and demand assessments (HNDAs), carried out for each local authority operational area, and in associated housing supply targets (HSTs) to be included in each local authority's development plan. A national planning regulator was established in 2019 to ensure local authorities adhere to these policies and systems and to provide guidance and training to the sector. The establishment of this office was a key recommendation of the Mahon Tribunal (Mahon, 2012).

These structural reforms were underpinned by a series of reforms to planning procedures and operational guidelines. Among these, changes to guidelines on the density of residential development issued the minister for housing are particularly significant. Guidelines on *Sustainable Residential Development in Urban Areas* issued in 2009 recommend appropriate locations for increased densities (Department of the Environment and Local Government, 1999; Department of Environment Heritage and Local Government, 2009). These identify the potential for very high-density residential development in city centres, brownfield sites in cities and towns and

sites on public transport corridors and for higher densities than has been the norm heretofore in inner suburban sites and smaller towns and villages. Notably, when these minimum density requirements are combined with rules regarding minimum site coverage in city centre developments, this can result in much higher density requirements in practice of 100 dwellings per hectare (DPH). Furthermore, both local authorities and an Board Pleanála are required have regard to these guidelines in carrying out their functions and apply any ‘specific planning policy requirements’ included in the guidelines when making decisions regarding applications for planning permission. To further reinforce these measures to achieve compact growth, 2018 guidelines on apartment development suggest that apartments should also be included in lower density developments to provide a wider range of dwelling types and sizes (Department of Housing Local Government and Heritage, 2018a). In addition, *Urban Development and Building Height Guidelines* also issued by the housing ministry in 2018, recommend that increased building heights will also be required to higher residential densities – at least four storeys outside city and town centres and at least six stories in city and town centres (Department of Housing Local Government and Heritage, 2018b). The 2018 apartment development guidelines also address the provision of dwellings built specifically for rent (called built-to-rent or BTR) and developments which include shared living facilities (called co-living developments) (Department of Housing Local Government and Heritage, 2018a). Both of these accommodation types are generally owned and managed by institutional landlords or by third level institutions in the case of co-living provided as ‘purpose built student accommodation’ (PBSA). Under the terms of the 2018 guidelines, BTR and PBSA developments are subject to different (and generally less onerous from developers’ perspective) rules regarding the minimum size of dwellings and car parking provision, for instance, furthermore they are also exempt from the requirement to provide social housing specified in Part V of the 2000 Planning Act. A further significant change to planning implementation was introduced by 2016 legislation which amended procedures for approval of planning for developments including 100 or more dwellings and/or including PBSA. Under the terms of the legislation these were deemed Strategic Housing Developments (SHDs). SHD applications go directly to an Bord Pleanála for decision and, notably, these decisions cannot be appealed.

In marked contrast to the previous phases of in the development of the Irish planning system, this most recent phase is characterised by far more integration of planning theory and practice. This is a welcome development and absolutely necessary if this country is to have meaningful (in the sense of actually translated into practice) national and regional spatial planning and to also achieve key public policy objectives particularly in relation to mitigating climate change. However, the transition to more integrated national, regional and local land use planning has not been a smooth one. It has faced significant political opposition and also challenges related to implementational context and policy design.

Political opposition to this transition has focused on efforts to concentrate new housing development in urban areas and to densify these developments. The emergence of such opposition is not surprising in view of the very long history of difficulties in developing inner urban areas in this country, as summarised above, and the resultant over reliance on low density, suburbanised housing typologies and one-off rural housing as the primary response to housing supply and affordability challenges since the late 1960s. However, the scale and breath of recent opposition to densification of residential development in towns and cities is striking – it is spread across the political and social class spectrum. This reflects the fact that the densification agenda has become entangled with concerns about distinct but related public policy issues such as: the high rents charged for BTR accommodation and small size of dwellings provided; tax avoidance by investors in this form of housing; the fact it is not available for purchase by aspirant home owners and ‘studentification’ of some inner-city neighbourhoods due to over concentration of purpose built student accommodation (Kapila, 2019; Neylon, 2022b, 2022a). The ‘fast tracking’ of planning decisions for Strategic Housing Developments straight to an Board Pleanála has also rightly been criticised for undermining local government’s role in planning and thereby weakening democratic oversight of the land use planning system.

The context in which this planning transition has taken place has also created challenges. The Irish population is rising very rapidly, due primarily to inward migration rather than natural increase. Immigration drives strong growth in the numbers of households and therefore demand for housing (Housing Commission, 2024). The collapse of the building industry and of the Irish banks following the 2006-07 financial crisis continues to generate challenges for housing provision (Norris and Coates, 2014). Builders/ developers have found the transition to the new higher density forms of development challenging in part because of difficulties in raising finance to enable these forms of residential development. This is because of severe challenges in raising bank loans for any form of residential development and also because the model traditionally used to finance low density house building, whereby builders would build and sell a section of a new housing estate and use the proceeds to fund the construction of the next section, is not viable when building apartments. Developers have also raised concerned about low demand for apartments outside large urban centres and their high cost of construction which has limited demand from owner occupiers even in cities. As a result, many of the new apartments which have been constructed

outside inner-city neighbourhoods have been sold for social housing, which raises some concerns about socio-spatial segregation (Norris *et al.*, 2022). There is also evidence that litigation against planning decisions has increased in recent years – judicial reviews of strategic housing developments increased from seven in 2019, to 25 in 2020 and 48 in 2021, for instance (Reidy and Mulryan, 2024). This has created challenges for planning policy implementation or ensured it is implemented correctly – depending on your point of view (Jones, 2016). This development reflects broader trends in Irish society of course, coupled with the growing legal complexity of plan making and implementation due to the parallel increase in the complex regulatory environment as the scale of environmental and other relevant regulations has expanded. In addition, the Aarhus Convention – an international agreement ratified by Ireland in 2012 which created new obligations regarding information, public participation and access to justice in environmental matters - has significant implications for the planning system. Its ‘special costs rule’ has limited litigants’ liability for costs in the case of certain categories of challenges to local authorities’ and an Board Pleanála’s planning decisions on environmental grounds. It may therefore have reduced the financial barriers to litigation (Jones, 2016). Severe shortages of qualified planners in an Board Pleanála and local authorities have created challenges for development plan making and also for processing planning decisions within the statutory timelines (*ibid*). It is also likely these capacity constraints have increased the risk of legal challenges.

These political and implementation challenges have been accompanied by further challenges relating to policy design. Successful integration of national, regional and local land use planning requires not only enforcement of the links between these levels of planning, but it also requires that the design and content of the plans made at each level is robust. Notably the recently published report of the Housing Commission has raised concerns about this issue (Housing Commission, 2024). For instance, the Housing Commission criticises the National Planning Framework objective of distributing 75 per cent of population growth (and therefore new housing) outside Dublin. It questions the evidence basis for this objective, pointing out that the concentration of population in the largest city in Ireland is in line with the norm in other small European countries. The Housing Commission (2024: 12) also queries the feasibility of this objective on the grounds that:

While policymakers can determine where housing is developed, they cannot determine where jobs will be created. Economies of scale and resulting agglomeration effects in sectors such as tech have led to greater consolidation of employment opportunities in Dublin, rather than greater regional distribution of such opportunities. Patterns of foreign direct investment (FDI) are not based on the guidance and aims of the NPF but are instead guided by commercial considerations and goals other than balanced regional development... As a result, the capital will continue to be a strong engine of economic growth and job creation into the future

The Commission raises concerns that the NPF’s efforts to constrain the growth of Dublin have reinforced housing undersupply and price inflation in city, while displacing supply to the regions surrounding the city and thereby driving urban sprawl, traffic congestion and long-distance commuting. On this basis it recommends that ‘The policy goal of bringing about more balanced regional development by redistributing economic activity to Ireland’s regional cities at the expense of Dublin requires review’ (Housing Commission, 2024: 37).

In addition, to these criticisms of the overarching goal of the National Planning Framework, the Housing Commission also raises concerns about arrangements for translating these into practice via housing need and demand assessments and associated housing supply targets which must be included in each local authority development plan. While it asserts that ‘the HNDA methodology is in principle the correct one’ it suggests that the application of this methodology (which was originally devised by the Scottish government) in ‘the Irish context has been problematic’ (Housing Commission, 2024: 32). The Commission raises three principal problems with the use of the HNDA methodology in the Irish context:

- The national estimates of housing need on which the local HNDA estimates are based underestimate the true level of need. This is because they reflect future project increases in population and household numbers, they don’t take account of the existing ‘housing deficit’ as evidenced by young people remaining involuntarily in their parents’ home because they can’t afford to rent or buy their own home.
- The application of the HNDA framework has also not been sufficiently sensitive to regional economic and social contexts. In particular, the calculation of HNDAs for local authority operational areas fails to account of the fact that ‘functional housing market areas rarely coincide with local authority boundaries’ (Housing Commission, 2024).
- In Scotland HNDA results are generally accepted as being the minimum level of housing supply that is needed. In contrast in Ireland, the Commission raises concerns about the ‘inappropriate referencing of HNDA results to argue for a cap on housing development in particular localities’ (Housing Commission, 2024).

5. CONCLUSIONS

This paper has reviewed the history of land use planning in Ireland and examined how historical legacies have shaped the contemporary planning system and thereby Ireland's ability to address critical socio-economic challenges particularly relating to the delivery of sufficient housing to meet the needs of our rapidly growing population.

It has revealed that for decades after the birth of this system in the 1960s, development control and particularly development planning in Ireland were comparatively weak compared to neighbouring countries and regional and national level spatial planning did not operate in any meaningful sense in this country. Thus, the land use planning system placed little or no constraints on housing output. This had been severely constrained during the early history of the State by lack of capital, particularly private capital, but as bank and building society finance for house building and purchase began to expand from the 1960s housing output rose in parallel and proved very elastic in response to demand (Norris, 2016). The benefits of this new housing provision were undoubtedly significant, in terms of improving housing availability and quality. However, this paper has pointed out that they were largely privatised - enjoyed by individual households and the house building industry. Furthermore, the costs of the unmanaged and generally low density suburban or one-off rural housing built at this time were also substantial and critically these costs were largely socialised because they are manifested in increased costs of providing public services and public infrastructure such as schools, public transport and waste, power and water infrastructure. Indeed, the full costs of this low-density development have only become in recent years as appreciation of their impact on climate, nature and biodiversity and also on the provision of social care for an aging population living car-dependent lifestyles in dispersed one off rural housing has grown (Housing Commission, 2024).

In the period since the global financial crisis in the mid-2000s strong efforts have been made to address these problematic legacies in the Irish planning system. Most notably the latest national spatial development strategy – the National Planning Framework - has been accompanied by systems to enforce implementation via reviews by the Office of the Planning Regulator and housing needs and demand assessments that inform housing supply targets which are reflected in local authority development plans. This development is welcome and necessary if we are to meet other key public policy objectives, most notably those related to climate action. However, ensuring that national and regional plans are reflected in local plans also means that any weaknesses in the top tier of this hierarchy of plans are translated into problems on the ground in terms of planning for and delivery of housing. This paper has highlighted some weaknesses in the National Planning Framework which should be addressed. In particular, the definition of 'balanced regional development' employed in the NPF is neither appropriate nor realistic and has the potential to negatively affect housing supply and affordability in Dublin. This paper has also suggested the application of the HNDA methodology to the Irish context is problematic and should be reviewed. The paper has also examined difficulties in the implementation of contemporary planning policy due to problems in building industry capacity and the availability of finance for residential development which have created particularly challenging implementational context coupled with political opposition and increasing levels of litigation. While the planning system has limited capacity to address the first of these challenges directly, new housing design guidelines published by the government in early 2024 have the potential to have a positive indirect impact by enabling the construction of more townhouses and duplexes in new residential developments (Department of Housing Local Government and Heritage, 2024). These building typologies will provide new options for high density accommodation provision, which critically are easier to finance than apartments because townhouses and duplexes they can be built and sold in stages. As argued above, the strength of political opposition to higher density development in cities and towns in part reflects the fact that the new policy emphasis on compact growth has become entangled with public concerns about separate (but related) policies such as built to rent and co-living housing developments. Notably, this opposition has promoted some significant revisions to the latter suite of policies. The SHD procedures were abolished in 2021, for instance (Woods, 2023). Although they have been replaced with a similar mechanism called Large-Scale Residential Developments (LRD), decisions regarding LRD applications are made by local authorities and not by an *Board Pleanála* (Department of Housing Local Government and Heritage, 2021). The planning rules which enable co-living developments have also been amended and this housing typology is no longer permitted except in the case of purpose-built student accommodation. While BTR typologies are still permitted by the planning system, restrictions on the number of houses (but now apartments) in any new development which can be purchased by investment funds were introduced in 2020. These reforms point to the importance of continuous review and improvement of planning policies and their implementation, particularly in the context of the transition to more integrated national, regional and local planning and compact growth. The rising scale of litigation in the planning system is likely to be more challenging to address. This is because development planning is an activity inherently ambiguous in some respects. Local authority development plans are devised by local politicians working with professional planners but taking account of submissions by the public and interest groups. Thus, development plans are by nature a

compromise between local political concerns and planning policy requirements and the ambiguity, and contradictions required to achieve such compromises provide numerous openings for potential litigation to exploit. However, reducing the scale of planning litigation is critical because widespread legal challenges to planning decisions undermines the democratic foundations of the planning system by transferring decision making responsibility from elected national or local government to the unelected judiciary.

Finally, while this paper has concentrated on reviewing the planning system established by the 1963 act and the incremental changes made since then, it is worth briefly considering whether the same system would be established if government was setting up a land use planning system from scratch today. The Housing Commission (2024: 62) has suggested that they would not and argued that ‘The existing system, facilitating challenges at all points of plan-making, and thereafter against development judged to be in compliance with adopted plans, must be capable of better balance’. To achieve this balance, it recommends that there should be earlier and more in-depth public participation in the development plan making process in order to enhance community ownership of these plans and reduce the need for appeal. Public participation in development planning is enhanced ‘Where a development is in line with the national, regional and county plans’ the Housing Commission (2024: 62) recommends ‘there should be a presumption that planning consent will be issued’.

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