



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

# Annual Report 2020





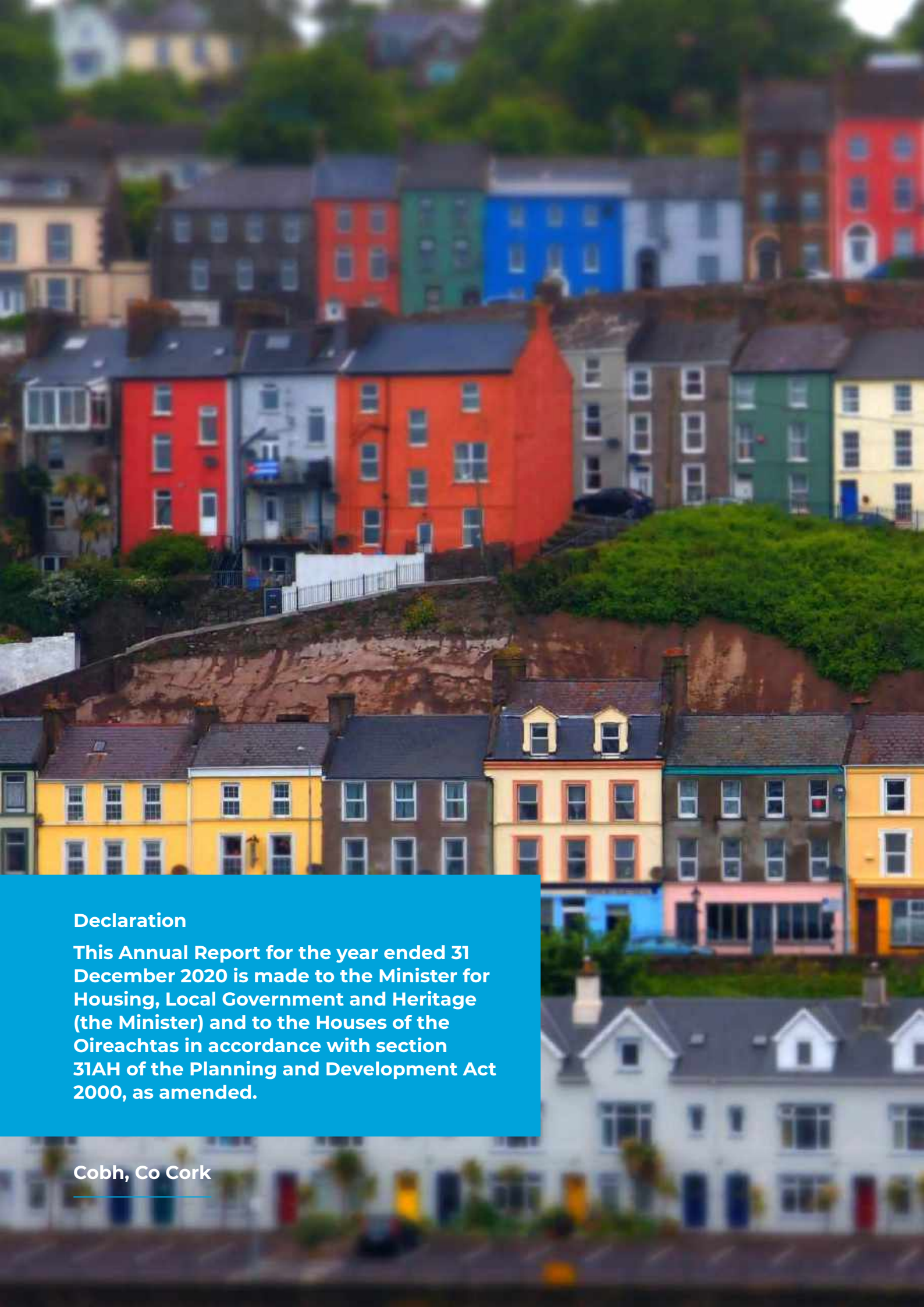
Kilkenny City



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

# Annual Report 2020





## Declaration

This Annual Report for the year ended 31 December 2020 is made to the Minister for Housing, Local Government and Heritage (the Minister) and to the Houses of the Oireachtas in accordance with section 31AH of the Planning and Development Act 2000, as amended.

Cobh, Co Cork

# Contents

<b>Introduction from the Planning Regulator</b>	<b>6</b>
<b>Part I: Activity Reporting &amp; Corporate Affairs</b>	<b>12</b>
<b>1. What We Do</b>	<b>14</b>
1.1 Our Statutory Responsibilities	15
1.2 Our Structure	17
1.3 Our Strategy	18
<b>2. Evaluation and Assessment of Statutory Plans</b>	<b>22</b>
2.1 Notification of Consultations on Statutory Plans	23
2.2 OPR Submissions on Statutory Plans	25
2.3 OPR Recommendations and Observations: Legislative Categories	27
2.4 OPR Submissions Concerning National Policies	29
2.5 Adopted Plans: Outcomes of OPR Recommendations	30
2.6 Spatial Data Management	32
2.7 Stakeholder Engagement on Plan Evaluations	35
<b>3. Planning Reviews and Examinations</b>	<b>38</b>
3.1 Reviews	39
3.2 Case Handling	40
3.3 Case Studies: Complaints Received by the OPR	47
<b>4. Education, Training, Research and Public Awareness</b>	<b>52</b>
4.1 Education and Training	52
4.2 Research	57
4.3 Public Awareness	60
<b>5. Corporate Affairs</b>	<b>64</b>
5.1 Governance	64
5.2 Continuing to Build the Organisation	67
5.3 Financial Information	72
<b>Staff Information</b>	<b>75</b>
<b>Part II: Planning in Context</b>	<b>76</b>

## Introduction from the Planning Regulator



The year 2020 was one of enormous challenge for the OPR similar to almost every organisation as we grappled with the Covid pandemic in our first full year of operation since establishment in 2019.

Nevertheless, it is a great credit to our staff, some who joined us in 2020, and those we work with that the challenges posed by the pandemic were not only met but overcome and the way we all flexibly adopted to new and highly successful ways of working to do things never done before.

It is also a great credit to the planning process in general – an essential service – that An Bord Pleanála, local authorities and the OPR maintained, to the greatest extent possible, delivery of planning services throughout the year so that we have a bright future once the pandemic eases.

Work continued unabated across the sector in preparing the plans that will shape our future, informed by learnings from the pandemic, in assessing planning applications and appeals, undertaking enforcement and conducting a wide range of research, training and public awareness exercises.

This was despite a range of operational, practical and regulatory challenges all addressed by team working and a collective approach across the public service and the public at large.

The pandemic too gave communities the opportunity to pause and reflect on their future, co-incidentally and helpfully at a time of unprecedented numbers of reviews of local authority development plans across the country and new planning training and research activities.

### **Our Work in 2020**

Across our three statutory functions, our first full year of operation witnessed significant increases in both the scale of our activities and their impact in enhancing planning in Ireland.

In relation to our **statutory assessments of local authority development plans**, local authorities worked hard to review and update a backlog of plans. In total, we made 110 observations and 93 recommendations across 45 plans. The Oireachtas established the OPR not to set planning policy but to perform independent and thorough scrutiny of such plans to ensure that the public can be confident they reasonably and consistently apply relevant government policies.

These include targets for securing urban and rural regeneration, the appropriate levels and locations for zoning of land for future development, more people choosing walking, cycling and public transport, delivery of quality and affordable housing, ensuring vibrant city and town centres and a deeper respect and care for nature and our environment in planning for the future.

Over 2020, the vast majority of our recommendations were implemented by local authorities pointing to better planning policy outcomes. We had only one ultimate case of a recommendation to the Minister to use the statutory power to require a local authority to implement our recommendations, which the Minister accepted.

In relation to **examining the systems and procedures followed by local authorities** in discharging their statutory planning functions, we delivered on two fronts. We completed the preparations for a programme of reviews of local authorities now underway in 2021, despite the headwinds of the pandemic. And cases raised with us by members of the public doubled with a notable increase in the number of matters raised with us that were upheld. These result in improvements to procedures used by local authorities. Some case studies of these are outlined in the report and point to the benefits of the OPR in putting the spotlight on practices needing attention and enabling service enhancement.

In relation to **promoting public awareness of planning, research and training** the stand-out success was the move to put in place an unprecedented level of training in planning for the 949 local councillors across the 31 local authorities in conjunction with the Association of Irish Local Government (AILG). There were five events in total in 2020 attended by over 600 elected members of local authorities.

Virtual training reached far more members than traditional models ever could and will ensure that those who make and implement planning policy are fully informed so that the important decisions they make are based on the best evidence and latest information.

In our **corporate functioning**, we fully complied with all governance and financial procedures, implementing the Code of Practice for the Governance of State Bodies and we took possession of our permanent premises part of the Technological University Dublin campus in a living-laboratory of integrated master-planning and urban regeneration in Grangegorman, Dublin 7. While staff attendance at our HQ was restricted given public health guidance, our new premises position us well to bounce back in the post-pandemic scenario and enable future work.

Part I of this report provides a detailed overview of these and other activities undertaken by the OPR during 2020.

Part II of this report – continuing the format from last year – combines official statistics from the Central Statistics Office (CSO), the Department of Housing, Local Government and Heritage and An Bord Pleanála to give an overview of the activities of planning authorities in Ireland in 2020.

Some of the key trends are as follows:

### **Plan Preparation**

The pace of local authority development plan preparation grew markedly in 2020 as evident from the publishing of 16 issues papers and seven draft development plans, which the OPR assessed.

### **Processing Planning Applications and Appeals**

The total number of planning applications submitted in 2020 decreased marginally with just over 31,000 applications, however approval rates remained high. However, ensuring planning applications submitted by applicants meet legal requirements continues to be an issue across the country. Levels of applications declared invalid has been increasing each year from 2016 (14.3%) to 17.1% in 2020 and varies widely between individual planning authorities.

### **Planning for and Approving Future Housing Projects**

Demonstrating the extraordinary efforts by the planning process in facilitating provision of new homes in the right places and in support of government policy at a time when local authority operations were challenged by the pandemic, a total of 44,538 residential units received planning permission in 2020, a remarkable increase in the circumstances of 13.5% over 2019.



In 2020, Dublin and its surrounds in the Eastern and Midlands Regional Assembly (EMRA) area dominated in the level of homes approved, rising to 74% (32,867 homes) of the national figure, up from 64% (25,673 homes) in 2019. In addition, almost 64% of all homes approved in the EMRA area were located within the four Dublin local authorities and approximately 29% of residential units permitted within the EMRA area were located within the surrounding counties of Kildare, Louth, Meath and Wicklow. This suggests that the basis for achieving more compact and sustainable patterns of urban development is there if, in particular, the many permissions for higher density development within our cities and towns and public transport corridors are activated.

An Bord Pleanála received 110 valid Strategic Housing Development (SHD) applications during 2020, slightly down from 2019 when 119 SHD applications were lodged. A total of 126 SHD applications were formally decided during 2020 (compared to 82 decided in 2019). Of the 126 decided applications, 98 were granted planning permission and 28 applications were refused permission.

### **Economic Development**

The level of industrial and manufacturing floor space approved fell in 2020 by 17% compared to 2019. Office floor space permitted over the same period fell by 18.7%, however there was a 16% growth in the trade sector.

Investment in infrastructure for the renewable energy sector and the wider climate action agenda continues to be a major new area of work for the planning process. Implementation of the National Development Plan (NDP) in relation to various infrastructure projects could be seen in the ongoing Strategic Infrastructure Development (SID) workload of An Bord Pleanála with 24 SID application cases being received in 2020, a slight decrease of two cases on 2019.

### **The Future of Our City and Town Centres**

Work by the Heritage Council on its Collaborative Town Centre Health Check Programme (June 2020) highlights that vacancy rates in regional towns were very high before the pandemic, pointing to a major future focus on measures to address vacancy rates, which the Programme for Government has committed to in relation to developing a Town Centre First policy.

### **Legal Challenges in the Planning Process**

Between 2017 and 2020, the number of legal challenges brought against decisions of An Bord Pleanála increased by 74%. However the percentage of planning decisions that are subject of legal challenge, annually, remains very small (only 0.3% in 2020) and only 0.07% of decisions were overturned by the courts.

Planning-related judicial reviews continue to primarily relate to the implementation of statutory requirements of EU environmental directives, such as Environmental Impact Assessment (EIA), Habitats and Water Framework.

### **Planning Ahead and Resourcing the Planning Process**

An overall headcount of technical and administrative staff working in planning authorities across the state, or within the individual authorities, is not yet readily available. This makes it difficult to determine the staffing resources dedicated to implement government planning policy on the ground and prevents a comparison between authorities.

Anecdotal evidence is that many local authorities are seriously overstretched. The OPR is beginning to analyse these issues in our 2021 Reviews Programme and as highlighted in last year's annual report. Planning application fees – last revised in 2001 – represent less than 30% of the cost of running the local authority planning and development function meaning that enhancing planning resources has to compete for resources with other important local authority budgetary demands.

In particular, the pandemic put the on-line services offer of local authorities into sharp focus. Delivery of an enhanced range of on-line planning services is underway but has been heavily delayed and this is a lesson to learn from and take in to account from the resourcing perspective.

A seamless on-line service from pre-application consultation to planning application and planning appeals and enforcement backed by an integrated ICT back-office support across the planning sector is long overdue. Given the performance of the planning process in overall terms, the above suggests a growing and urgent need to undertake a strategic workload and resource assessment. The OPR will be factoring this into its developing reviews programme. And in late 2020, the OPR agreed to engage in a study in conjunction with the local authority sector to help assess resources and future skills needs and this is a priority for progression in 2021.

### **Conclusion**

Reflecting on this most challenging of years to live and work through, I am confident that for you, the reader, it has very much reaffirmed the importance of good planning principles for healthy, cohesive communities.

Living through the pandemic has reconnected us to the importance of the quality of our local places, urban or rural.

As the Government's National Planning Framework correctly predicts, over the next 20 years Ireland will undergo huge change. We will become the neighbours to an extra million people, those people will need a half a million new homes to be provided for them and we will need to plan for 600,000 extra jobs.

Good planning is going to be the difference in adapting cities, towns and villages so that these changes happen in a way that housing and employment needs are met, infrastructure and amenities are delivered in the right locations and our environment and heritage are not only respected and protected but enhanced, particularly so in our progress on climate action.

This is why I believe that the OPR's role in independently overseeing the planning system, ensuring that all its parts work together in the public interest, is crucial to help ensure that these momentous changes happen in a sustainable and viable way.

Finally, I thank the Government, Minister Darragh O'Brien TD and Minister of State, Peter Burke TD and all their staff in the Department of Housing, Local Government and Heritage without whom it would not have been possible for the OPR to do its important work in enhancing Ireland's planning process and the trust in that process held by the public.



**Niall Cussen**  
Planning Regulator



Ballina, Co Mayo



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

# Annual Report 2020

## Part I: Activity Reporting & Corporate Affairs



## 1. What We Do

The Office of the Planning Regulator (OPR) was formally established in April 2019 on foot of recommendations made by the Tribunal of Inquiry into Certain Planning Matters and Payments (the Mahon Tribunal).

The appointment of an independent Planning Regulator, empowered to oversee the planning system in Ireland, was one of the key recommendations of the Tribunal.

While not a policy-making body, the OPR's role is to ensure that local authorities and An Bord Pleanála support Government policy and statutory requirements when implementing planning policy and statutory requirements.

Our role also encompasses the implementation of comprehensive programmes of planning research, training and public awareness in order promote the public's engagement in the planning process and to enhance knowledge and public information about planning in Ireland .

Dingle,  
Co Kerry



**Inis Meáin, Aran Islands, Co Galway**

## → 1.1 Our Statutory Responsibilities

The Planning and Development Act 2000, as amended, (the Act) gives the OPR a statutory basis to carry out three main functions:

### i. Evaluation of Statutory Plans

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In accordance with sections 31AM and 31AO of the Act, the OPR has responsibility for independently assessing all statutory forward planning with a view to ensuring that the plan provides for the proper planning and sustainable development of the area concerned. This includes evaluating city and county development plans, local area plans and variations/amendments.

Firstly, the OPR provides the relevant planning authority with observations and/ or recommendations regarding how a plan should address legislative and policy matters.

Once the OPR has provided statutory inputs to the plan-making process, the relevant planning authority must outline how such inputs will be addressed, taking account of the proper planning and sustainable development of the area.

If an adopted plan is subsequently not consistent with any statutory recommendations, the OPR may issue a notice to the Minister recommending that powers of direction, specified under section 31 of the Act, be utilised to compel the planning authority to address the matter.

### ii. Planning Reviews and Examinations

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In accordance with sections 31AS, 31AT and 31AU of the Act, the OPR may review the systems and procedures used by any planning authority including An Bord Pleanála in the performance of any or all of their planning functions.

It can also make independent and evidence-based recommendations to planning authorities, and to the Minister. It is intended that each local authority will be reviewed on a six-year cycle.

The OPR may also receive and examine complaints from the public or where requested by the Minister about a planning authority where the complaint relates to the organisation of the planning authority and of the systems and procedures used by it in relation to the performance of its functions under the Act.

### iii. Education, Training and Research

In accordance with section 31Q of the Act, the OPR is responsible for driving national research, education and training to highlight the role and benefit of good planning.

We deliver education and training programmes to both elected members and staff of local authorities and regional assemblies.

The education, training and research function helps to maximise knowledge transfer between the 31 local authorities, three regional assemblies, An Bord Pleanála and wider stakeholders such as professional bodies and interest groups thereby maximising efficiency, effectiveness and consistency across the planning system.

## OPR's three Core Functions

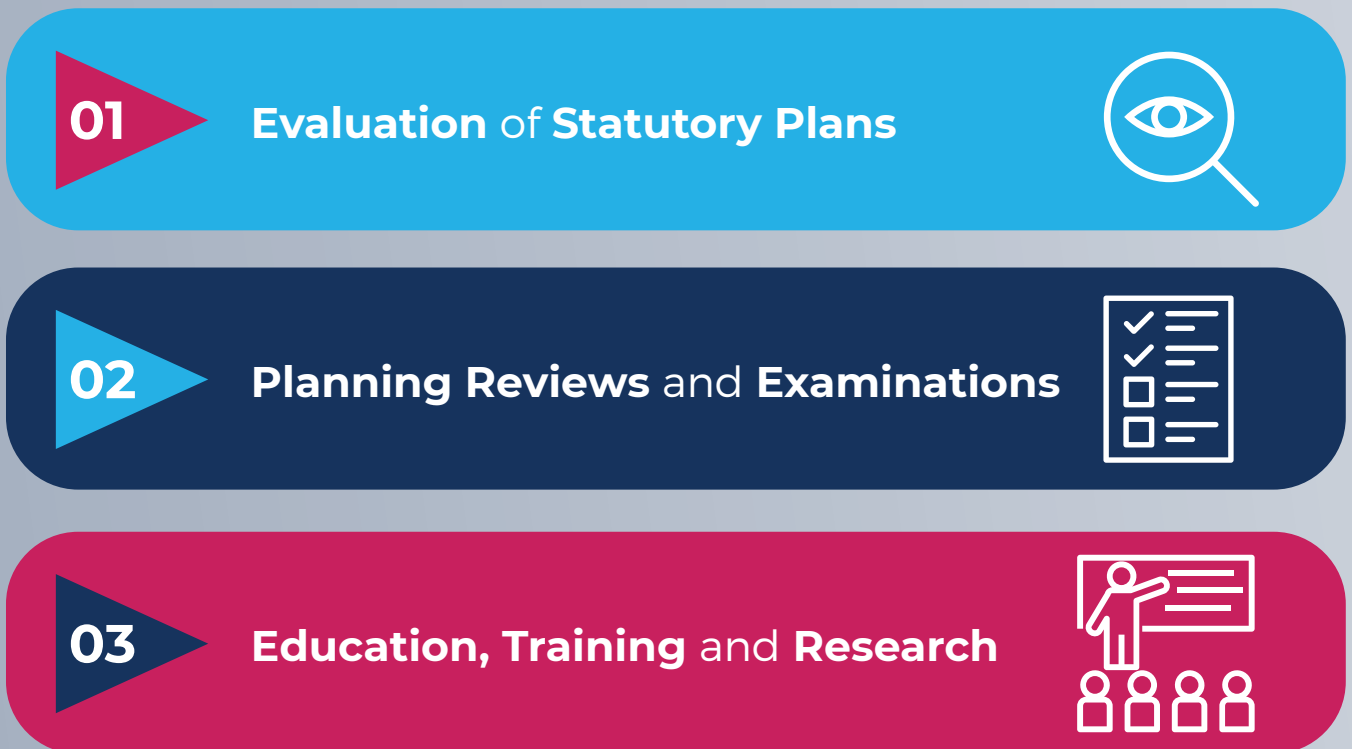


Figure 1: OPR's core functions



## → 1.2 Our Structure

The OPR is structured into three teams, mirroring the three statutory functions.

### Reviews and Examinations Team:

Director, Assistant Director, Senior Planner, Higher Executive Officer, Executive Officer and a Clerical Officer.

**Plans Evaluation Team:** Director, Assistant Director, Two Senior Planners, Planning Officer, GIS Officer, Higher Executive Officer, Communications Officer and an Executive Officer.

### Research, Training and Corporate Services Team:

Director, Two Assistant Directors, Senior Planner, Planning Officer, ICT Manager, Two Higher Executive Officers, Executive Officer and a Clerical Officer.

## Office of the Planning Regulator Corporate Structure and Functions Map

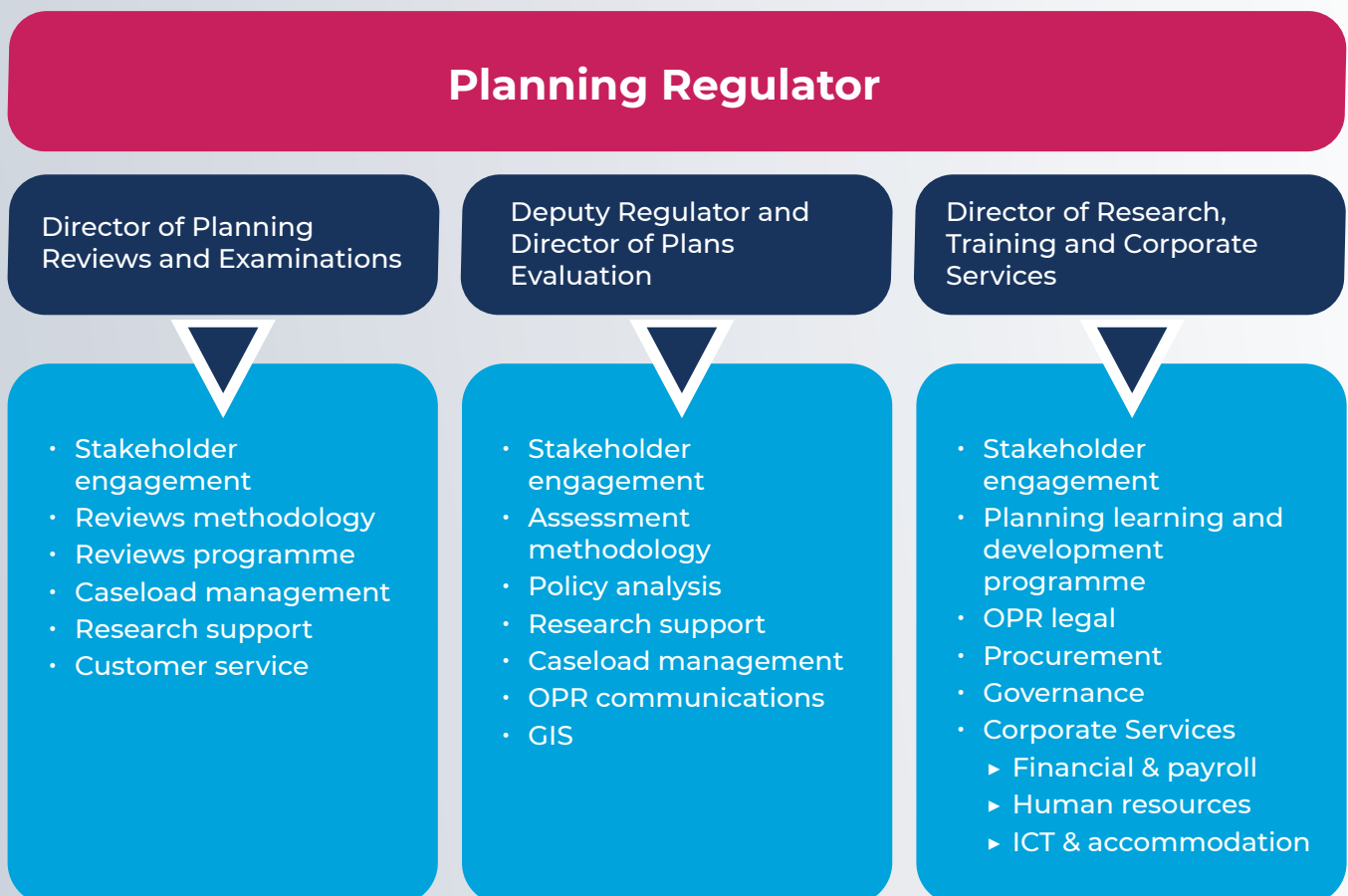


Figure 2: OPR Corporate Structure and Functions Map

## → 1.3 Our Strategy

The OPR Strategy Statement 2019-2024 was published on 2 October 2019, in accordance with section 31T of the Act, following a public consultation on a draft version of the Strategy Statement.

The strategy sets out the OPR’s high-level goals, actions and milestones in delivering the OPR’s statutory functions. The statement is available publicly on the OPR’s website<sup>1</sup>.

### Vision

The OPR’s vision is that by the end of the Strategy Statement period, the OPR will be in a position to conclude that:

Ireland benefits from a well-coordinated planning hierarchy, a wide-ranging, effective and well-received programme of education, training and research on planning matters has been put into effect, and a culture of continuous improvement will be created in planning authorities driven by regular reviews of their performance.

### Values

The strategy identifies the five key values of the OPR as:

1. Independence;
2. Professionalism;
3. Transparency;
4. Engagement; and
5. Customer Focus.



**Figure 3:** OPR Values

<sup>1</sup> [www.opr.ie/wp-content/uploads/2019/10/20191002-OPR-Strategy-Statement-Final-Text.pdf](http://www.opr.ie/wp-content/uploads/2019/10/20191002-OPR-Strategy-Statement-Final-Text.pdf)



*“We deliver education and training programmes to both elected members and staff of local authorities and regional assemblies.”*

Mizen Head footbridge, Co Cork

## Key stakeholders

The strategy acknowledges that the OPR must work with and take account of the inputs of many stakeholders in the planning process, reflecting the interests of:

- The public;
- The Minister for Housing, Local Government and Heritage;
- Planning authorities, An Bord Pleanála, regional assemblies, and the County and City Management Association (CCMA);
- Related regulatory and oversight bodies with a mandate in the planning area;
- The Oireachtas;
- The elected members of local authorities;
- State agencies and other consultees with a statutory remit in the planning process;
- Commercial and State-sponsored bodies involved in the delivery of strategic infrastructure;
- Professional bodies and interest groups;
- The Higher Education Institute (HEI) sector;
- Expert commentators and the media.

## Goals

The strategy also identified five key goals and corresponding delivery actions for the OPR over the Strategy Statement period. The five goals are set out in the infographic below.

## Strategy Statement Goals

### Goal One

Building a reputation as a clear, fair and independent voice on the effectiveness of Ireland's planning process.

### Goal Two

Driving innovation and learning for all those that are stakeholders in the planning process



### Goal Three

Focusing on the needs of customers and those with whom the OPR engages

### Goal Five

Building a resilient and agile organisation with a commitment to continuous learning.

### Goal Four

Creating a high-performing and efficient organisation that supports and enhances Ireland's planning process.

Figure 4: OPR's Goals

## 2. Evaluation and Assessment of Statutory Plans

In accordance with sections 31AM and 31AO of the Act, the OPR has responsibility for independently assessing all statutory forward plans with a view to ensuring that the plan provides for the proper planning and sustainable development of the area concerned<sup>2</sup>.

These assessments ensure that relevant government policies are being implemented and that issues like urban regeneration, land zoning, transport, housing, employment and town centre sustainability are reflected in development plans. This will mean that that our cities, towns and villages develop in a sustainable way and grow into vibrant places to live and work.

It should be noted that emergency Covid legislation enacted in Q2 2020 had a significant effect on both notification of consultations on statutory plans, as well as OPR submissions on statutory plans. The legislation amended the Planning and Development Act 2000, as amended (the Act), to include section 251A which extended statutory planning timeframes by 42 days.

Throughout 2020, there was an increase in submissions related to issues papers compared to the previous year.

**Fastnet  
Rock,  
Co Cork**

<sup>2</sup> All OPR submissions issued to local authorities under sections 31AM and 31AO of the Act are available at: [www.opr.ie/evaluation-of-statutory-plans/](http://www.opr.ie/evaluation-of-statutory-plans/)

Over three-quarters of the submissions in Q1 2020 related to work by the planning authorities in the Eastern and Midland Regional Assembly (EMRA) region, reflecting the fact that this was the first of the three Regional Spatial and Economic Strategies (RSES) to be adopted in June 2019.

The Northern & Western and Southern RSESs were adopted on January 24 and 31 2020 respectively. As per section 11(1)(b) of the Act, local authorities are required to initiate a review/variation of their city/county development plans in order to incorporate the relevant RSES no later than 13 weeks after the adoption of the regional strategy.

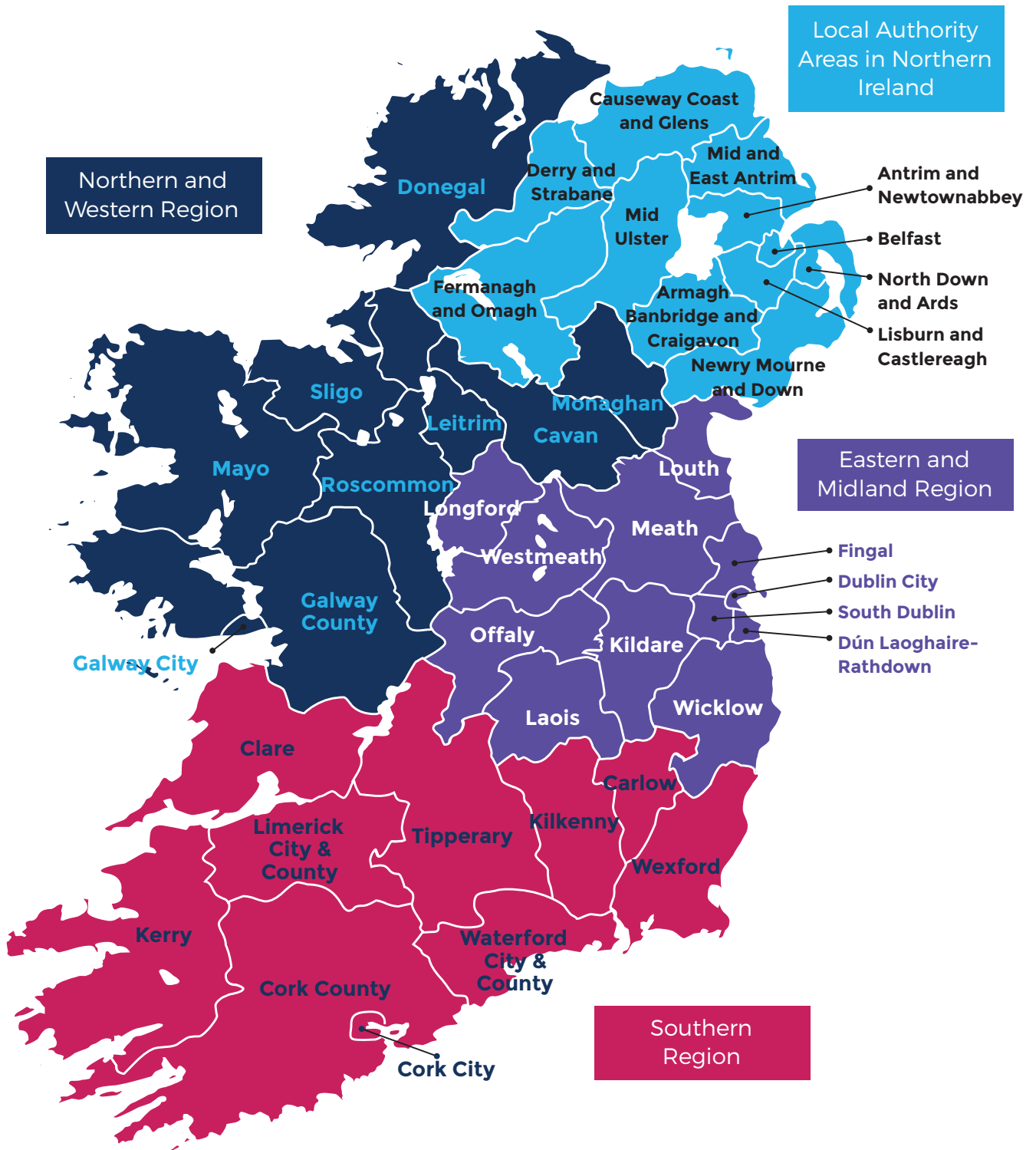
## → 2.1 Notification of Consultations on Statutory Plans

Planning authorities are required to notify the OPR at specified stages of the plan-making process.

In 2020, the majority of notifications related to pre-draft issues papers for city/county development plans. The OPR received notification of consultation on 43 statutory plans as set out in Table 1.

**Table 1: Notification of Consultations on Statutory Plans 2020**

<b>Total</b>	<b>43</b>
Issues paper	16
Draft development plan	7
Draft variations of development plan	10
Material alterations to draft development plan/variation	1
Draft local area plan	6
Draft amendment of local area plan	1
Material alterations to draft LAP/amendment	2



**Figure 5:** Local Authorities and Regional Assemblies in Ireland and Local Authorities in Northern Ireland



## → 2.2 OPR Submissions on Statutory Plans

The OPR makes submissions to local authorities at the various plan-making stages, which may include recommendations and/or observations.

Recommendations are made by the OPR on matters considered to constitute a potential material breach of legislative or policy requirements and which may affect the co-ordination of national, regional and local planning requirements. Failure to comply with a recommendation may lead to the issuing of a Ministerial Direction under section 31 of the Act.

Observations made by the OPR are advisory and generally issue on discretionary or more minor matters, often in the context of broader legislative and/or policy requirements where no material breach arises.

The OPR made 45 submissions to local authorities in 2020 as set out in Table 2.

**Table 2: OPR Submissions on Statutory Plans 2020**

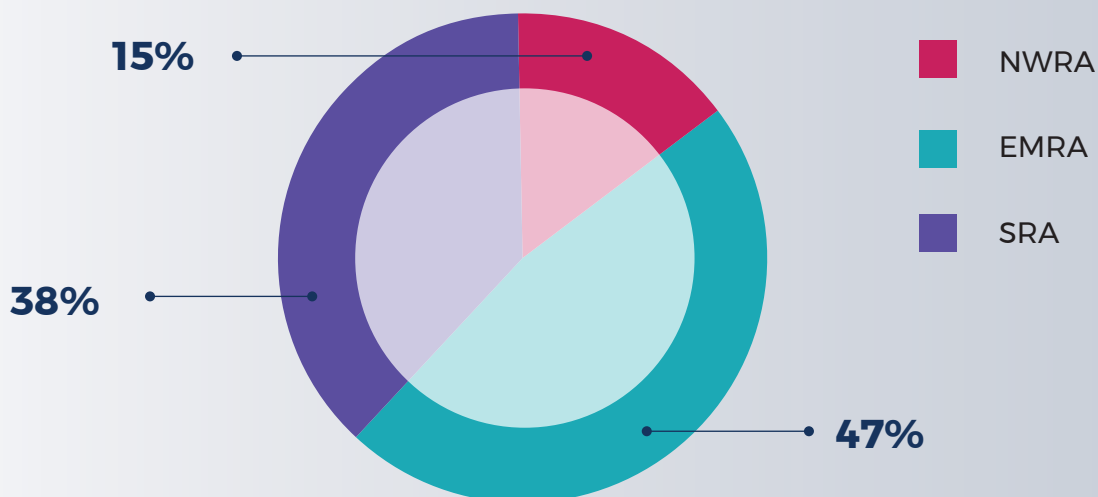
	Number of plans	Recommendations (number)	Observations (number)
<b>Total</b>	<b>45</b>	<b>93</b>	<b>110</b>
Issues paper	16	-	-
Draft development plan	5	70	59
Variations of development plan	16	11	31
Draft local area plan	4	8	18
Amendment of local area plan	0	-	-
Material alterations to draft DP/variation	1	0	0
Material alterations to draft LAP/amendment	3	4	2

In 2020, 69% of our 45 submissions on plans included either recommendations or observations. It should be noted that, due to the strategic nature of issues papers, the OPR does not make formal observations or recommendations on issues papers. Strategic advice and/or guidance is offered instead.

In terms of a regional breakdown, 47% of our submissions in 2020 related to statutory plans of the planning authorities in the Eastern and Midland Regional Assembly (EMRA), 38% in the Southern Regional Assembly (SRA) and 16% in the Northern and Western Regional Assembly (NWRA).

This reflects the fact that the RSES for the EMRA was the first of the three RSESs to be adopted (in June 2019), initiating the review of the county and city development plans in that region. However, the EMRA area would also be expected to produce a greater number of plans within the region due to its larger population and economic activity.

## OPR Submissions by Regional Assembly 2020



**Figure 6:** OPR Submissions by Regional Assembly

## → 2.3 OPR Recommendations and Observations: Legislative Categories

OPR submissions on statutory plans are based on the consideration of the following legislative and policy matters, including consistency with:

- Legislative provisions for statutory plans as provided for under the Act;
- Legislative provisions in relation to actions addressing Climate Change<sup>3</sup>;
- The National Planning Framework (NPF);
- The relevant Regional Spatial and Economic Strategy (RSES);
- The relevant Development Plan (DP); (in the case of local area plans)
- The NTA Transport Strategy (if in the Greater Dublin Area); and
- Relevant guidelines for planning authorities published by the Minister under section 28 of the Act, including consistency with specific planning policy requirements (SPPRs) specified in those guidelines as well as any policy directives issued by the Minister under Section 29 of the Act.

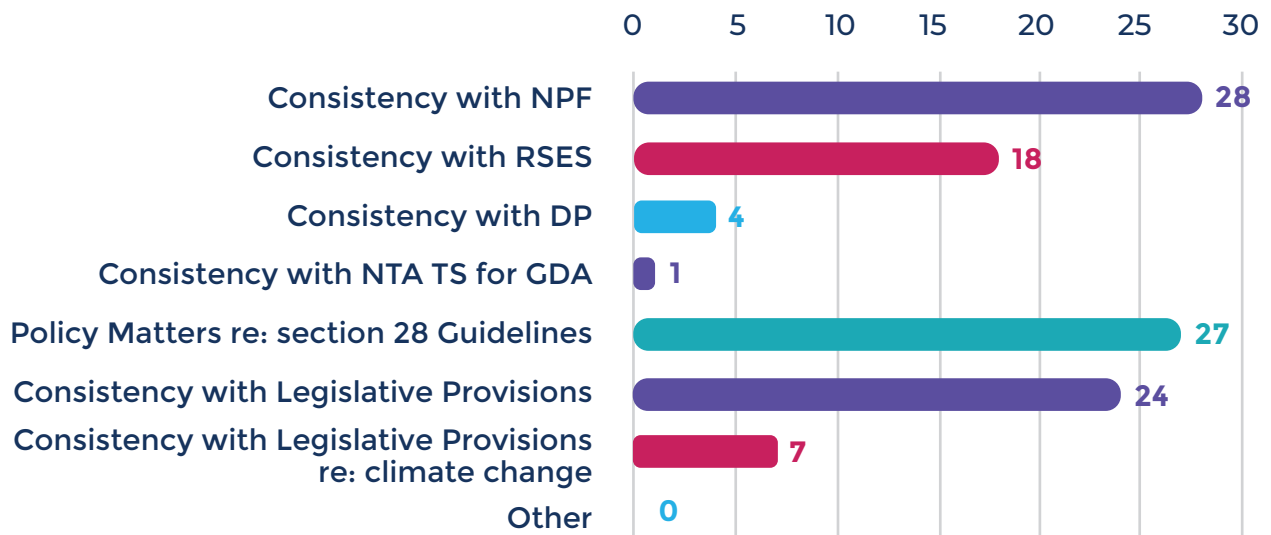
### Recommendations

The following patterns emerged in the 93 recommendations made in 2020:

- The most frequently occurring category related to consistency with the NPF, accounting for 30% of recommendations;
- The second most frequently occurring category related to consistency with 'policy matters in the section 28 guidelines', accounting for 29% of recommendations. These recommendations tended to focus on consistency with the section 28 guidelines relating to Flood Risk Management (2009), Local Area Plans (2013), Development Plans (2007), and Spatial Planning and National Roads (2012).

<sup>3</sup> In assessing and evaluating plan-making stages under section 31AM(2)(a) of the Act, the OPR shall endeavour to ensure it addresses the legislative and policy matters within the scope of section 10 and, in particular subsection (2)(n), in relation to climate change.

# Frequency of Legislative Categories in OPR Recommendations



**Figure 7:** Frequency of Legislative Categories in OPR Recommendations<sup>4</sup>

## Observations

The following patterns emerged in the 110 observations made in 2020:

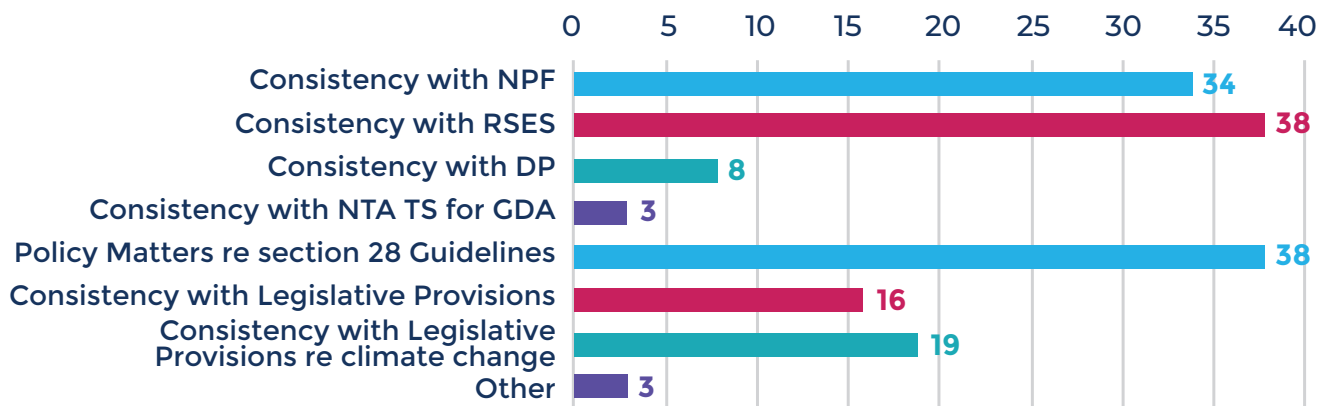
- Consistency with the RSES and ‘policy matters related to section 28 guidelines’, each accounted for 35% of observations made by the OPR;
- The third most frequently occurring category, accounting for 33% of observations, related to consistency with the NPF.



## Dungloe, Co Donegal

<sup>4</sup> A recommendation can cover more than one legislative category

# Frequency of Legislative Categories in OPR Observations



**Figure 8:** Frequency of Legislative Categories in OPR Observations<sup>5</sup>

## → 2.4 OPR Submissions Concerning National Policies

In our evaluation of statutory plans in 2020, we continued to implement, through engagement with the planning authorities and in our submissions, the appropriate application and alignment of statutory Ministerial section 28 guidelines on topics including;

- Flood risk;
- Impact on national roads infrastructure;
- Phasing / sequential approach to development;
- Residential density;
- Rural Settlement;
- Retail strategies; and
- Implementation of Specific Planning Policy Requirements (SPPRs) in certain guidelines.

Matters raised in our submissions concerning the consistency of draft plans with the objectives of the NPF and RSES, related to ensuring an evidenced based approach to the distribution of future expected population growth, the requisite phasing of development in line with the delivery of infrastructure and reflection of all of the above in land use zoning objectives.

Our submissions in 2020, also addressed the need for the next generation of development plans to include policies with the potential to both mitigate climate change (through tackling drivers) and facilitate adaptation (through addressing identifiable factors impacting on climate change) by:

<sup>5</sup> An observation can cover more than one legislative category

- Promoting measures to reduce energy use and greenhouse gas emissions through sustainable settlement and transport strategies, which is critical to addressing climate change mitigation; and
- Contributing to realising overall national targets on renewable energy and climate change mitigation in accordance with section 28 guidelines (Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change 2017).

## → 2.5 Adopted Plans: Outcomes of OPR Recommendations

In 2020, 18 plans were adopted by local authorities which had been evaluated and assessed by the OPR. We issued recommendations (24 in total) in respect of ten of those proposed plans. The outcomes arising from the OPR's recommendations are set out in Table 3 below:

**Table 3: Adopted Plans – Outcome of OPR Recommendations 2020**

Plan	Date Adopted	Local Authority	Recommendation Issued	Outcome
Variation No.2 of the Cork County Development Plan 2014	06/01/2020	Cork County Council	Yes (1)	The Variation was not made in a manner consistent with the recommendation of the Office*.
Variation No.7 of the Dublin City Development Plan 2016-2022	27/01/2020	Dublin City Council	Yes (1)	Recommendation substantially addressed
Variation Nos.8-27 of the Dublin City Development Plan 2016-2022	02/03/2020	Dublin City Council	Yes (2)	Recommendations substantially addressed
Croom Local Area Plan 2020-2026	03/03/2020	Limerick City & County Council	Yes (3)	Recommendations substantially addressed
Variation No.1 of the Kildare County Development Plan 2017-2023	10/03/2020	Kildare County Council	Yes (1)	Recommendation substantially addressed

**Table 3: Adopted Plans – Outcome of OPR Recommendations 2020**

Plan	Date Adopted	Local Authority	Recommendation Issued	Outcome
Variations No.2 and 3 of the Fingal County Development Plan 2017-2023	23/03/2020	Fingal County Council	Yes (6)	Recommendations substantially addressed
Tallaght Town Centre Local Area Plan 2020-2026	08/06/2020	South Dublin County Council	Yes (4)	Recommendations substantially addressed
Variation No.3 of the Listowel Town Development Plan 2009-2015.	19/06/2020	Kerry County Council	Yes (2)	Recommendations substantially addressed
Listowel Municipal District Local Area Plan 2020-2026.	19/06/2020	Kerry County Council	Yes (3)	Recommendations substantially addressed
Variation No. 1 of the Sligo County Development Plan 2017-2023.	09/06/2020	Sligo County Council	Yes (1)	Recommendation substantially addressed

\*The OPR issued a notice to the Minister for Housing, Local Government and Heritage, pursuant to section 31AN(4) of the Act, of a recommendation to issue a Direction on the making of Variation no. 2 of the Cork County Development Plan 2014. On consideration and in agreement with the Office, the Minister directed the County Council to delete Variation No. 2 of the Cork County Development Plan 2014 on 23 December 2020.

### **Case Study: The outcome of the OPR's submission on the 'Proposed Variation no.8-27 to the Dublin City Development Plan 2016-2022'**

The Proposed Variation no.8-27 to the Dublin City Development Plan 2016-2022 was open to public consultation between 28/11/19-22/01/20. The OPR made a submission on the proposed variation on 22 January 2020, which included two recommendations.

Submissions (including the OPR's) were considered by the planning authority and responded to in the Chief Executive's (CE) Report.

The OPR's Recommendation 1, related to proposed variation no. 19 and required the planning authority to take into account the requirements of *"The Planning System and Flood Risk Management Guidelines for Planning Authorities"* (2009) issued by the Minister under Section 28 of the Act, and Circular PL 2/2014 in relation to proposed lands zoned.

The CE's report in response recommended that Variation no. 19 be adopted but only in relation to lands where flood risk concerns did not apply.

The elected members subsequently adopted the recommendation. This demonstrated an appropriate response to the OPR recommendation and application of the relevant Section 28 Planning Guidelines. Overall, the adopted plan was deemed to substantively address the recommendations made by the OPR.



## → 2.6 Spatial Data Management

Driving innovation in the planning process is one of the OPR's key goals. We believe that development of easily used and publicly available Geographic Information Systems (GIS) assists citizens in engaging with the plan preparation process of their local authority.

In 2020, we rolled out a number of GIS applications, tools and services which facilitate easy, efficient and effective digital links and prompts to wider local authority planning information sources.

### Map Viewers available on the OPR Website

These user-friendly, intuitive tools are key to improving access to information on the plan-making process, and supporting communities and members of the public to engage in public consultation processes.



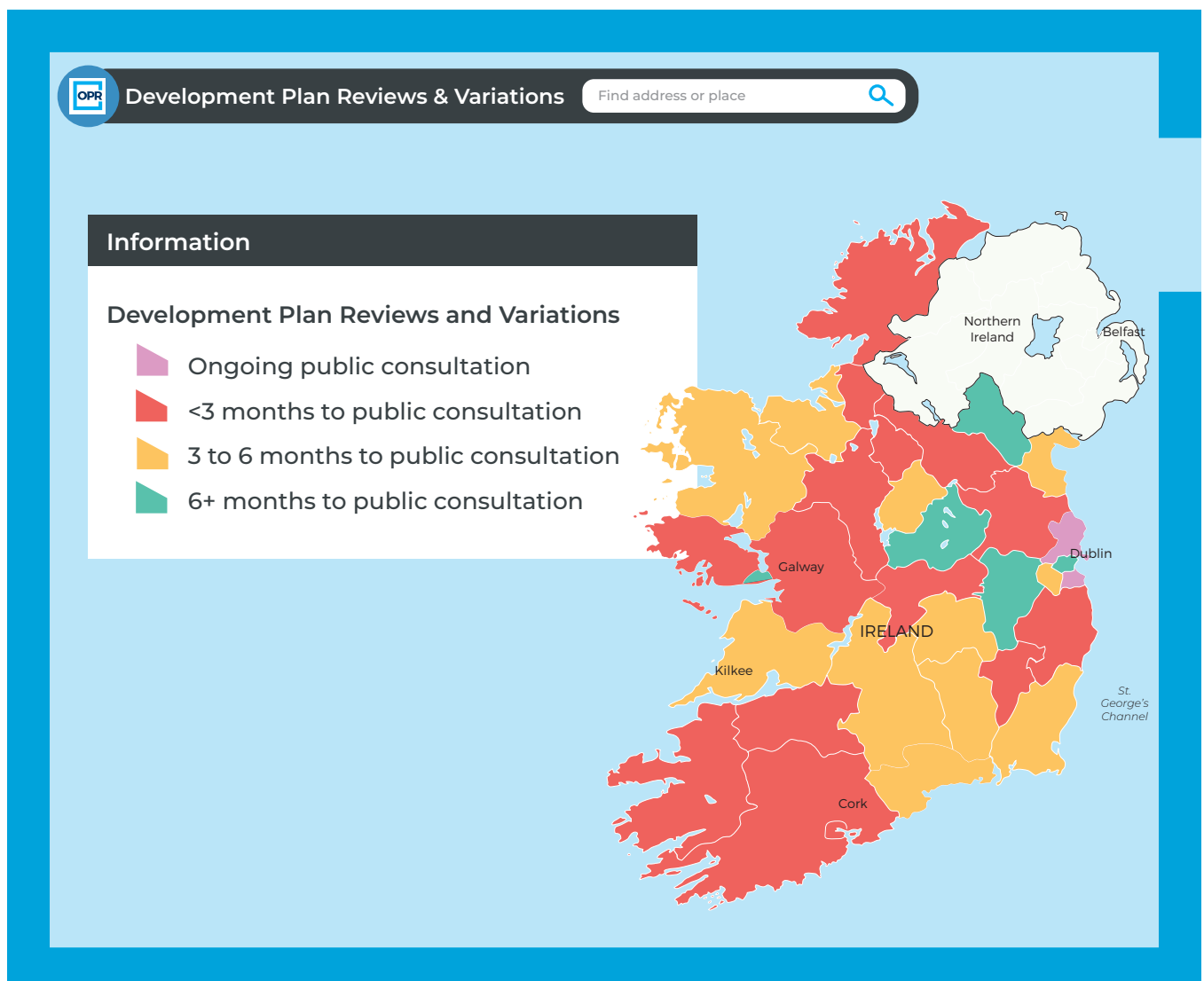
- **The Evaluations of Statutory Plans Map Viewer**

This map displays the details of live public consultations on statutory plans, as well as submissions made by the OPR to local authorities on their statutory plans. Users can click on a local authority to view details of public consultations, OPR submissions, and OPR recommendations to the Minister.

- **The Development Plan Reviews & Variations Map Viewer**

This map displays public consultations on city/county development plan reviews and variations.

Users can click on a local authority to view details of current and upcoming consultations. A colour coding system represents the timeframe to when the next public consultation phase is due to commence.



Development Plan Reviews & Variations Map Viewer

## The 2019 Annual Report Highlights Story Map

A story map was developed to accompany the 2019 Annual Report. It provided a visual narrative of the report's highlights. The OPR was the first organisation in Ireland to illustrate an annual report through this medium. Following from the success of the 2019 Story Map, the decision was taken to continue the Story Map for 2020 Annual Report.

## Internal Applications

We have also developed web-based GIS systems which we used internally in 2020 for mapping applications, displaying survey results and modelling of development plan core strategy and renewable energy policy proposals.



**Limerick City**

## → 2.7 Stakeholder Engagement on Plan Evaluations

The OPR is an organisation that engages with the key stakeholders in the planning system in a number of ways.

### Engagement with Local Authorities

The OPR continues to engage with local authorities scheduling informal, technical discussions with the authorities' professional planning and executive teams to support the working relationship in the context of the OPR's statutory role in advising local authorities throughout the plan-making process.

The OPR held 14 on-line meetings with local authorities on their plan-making process and the submissions made by the OPR's at the relevant stages of the process. Ongoing engagement with local authorities on their plan making will continue going forward, as a key part of the Plans Evaluation Team's work.

### Plan Evaluations Forum

The Plans Evaluation Forum was established in June 2019. The purpose of the Forum is to facilitate discussion and information exchange in the consideration of statutory plans by the OPR and encourage greater policy alignment amongst stakeholders in the context of the plan making process. Members of the Forum include: the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media; the Department of Education and Skills; the Department of Housing, Local Government and Heritage; Irish Water; the National Transport Authority; the Office of Public Works; and Transport Infrastructure Ireland.

The OPR hosted nine meetings of the Plans Evaluation Forum in 2020 which enabled discussions between all organisations on statutory plans subject to public consultation over that period.

### Further Promotional Activities

In May, the OPR published a comprehensive communications resource which aims to help local authorities generate greater public participation in the development plan process. Entitled "Increasing Public Engagement in Local Authority Development Plans – A Communications Toolkit," it offers tips, advice and practical suggestions on ways to encourage wider public engagement when developing a county/city development plan.



**Rose Fitzgerald Kennedy Bridge, Co Wexford**

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*“User-friendly, intuitive tools are key to improving access to information on the plan-making process.”*



## 3. Planning Reviews and Examinations

Chapter IV ('Review of Planning Functions') of Part IIB of the Act enables the OPR to review the systems and procedures used by local authorities and An Bord Pleanála in performing their planning functions. There are three contexts for such reviews under the Act:

<b>Section 31AS</b>	Where the OPR considers such a review to be necessary or appropriate.
<b>Section 31AT</b>	At the instigation of the Minister.
<b>Section 31AU</b>	An examination of a complaint related to the organisation of a planning authority and of the systems and procedures used by it in relation to the performance of its functions under the Act.

These provide the basis for the OPR to oversee the effective delivery of planning services to the public and significantly strengthens institutional arrangements to ensure the proper functioning and integrity of the planning system.

## → 3.1 Reviews

Conducting reviews of the systems and procedures used by local authorities in delivering planning services to the public is a key statutory function of the OPR. As committed to in our strategy statement, the OPR is implementing a programme of reviews whereby we will review each authority and An Bord Pleanála, broadly over a six-year cycle. The reviews programme will identify good practice and achievements, promoting learning between authorities, as well as highlighting any areas for improvement.

To guide and give structure to the programme, in 2020 we published a pilot methodology for conducting reviews of local authorities. The methodology was developed with the assistance of the Department of Housing, Local Government and Heritage, the National Oversight and Audit Commission, the local government sector, An Bord Pleanála, the national planning institutes and wider stakeholders.

The methodology has been developed to ensure the general review programme is implemented in a fair and consistent manner and is available on our website<sup>6</sup>.

The OPR initiated the pilot phase of the reviews programme towards the end of 2020, with four reviews to be completed by the end of 2021. As part of the preparations, in 2020 we commenced engagement with local authorities and established a panel of suitably qualified and experienced contractors to assist in delivering the reviews programme.

Each review will take approximately six months. On completion of the pilot phase we will evaluate the implementation of our reviews methodology before moving on to the remainder of the programme from 2022 onwards.

### Observations made to the Minister under section 31P(1)(i) of the Act

Another function of the OPR is to make observations from time to time to the Minister, under section 31P(1)(i) of the Act on the operation of the planning process. This establishes a more general mechanism for the OPR to advise the Minister in relation to practical aspects of the operation of planning legislation and planning matters that come to light in the course of our wider statutory functions.

In 2020 we issued two observations to the Minister. One related to the consideration of maintenance costs in building lifecycle reports for apartment developments in the context of the section 28 guidelines 'Design Standards for new Apartments: Guidelines for Planning Authorities' (2018).

The other related to the determination of SHD applications by An Bord Pleanála in the context of land zoning and phasing of development in statutory development plans.

It is a matter for the Department of Housing, Local Government and Heritage to consider what, if any, response is needed in either a legislative, regulatory or policy making context.

<sup>6</sup> <https://opr.iw.ie/view-file/18>

## National Planning Data Group

In 2020, the OPR and the Department of Housing, Local Government and Heritage agreed to work together to deliver an updated system for the compilation of national planning data.

This led to the establishment of the National Planning Data Group. The purpose of the group is to work with the local government sector in enhancing available planning datasets. This exercise will inform the reporting on the effectiveness of the planning process, the delivery of planning services to the public and ongoing policy development and implementation analysis.

The group met on four occasions in 2020 and will continue engaging in 2021 to agree the parameters of the enhancements to available planning data, allowing for improved monitoring of the planning system.

For clarity, all correspondences received are recorded as cases. Upon initial receipt, we consider the details of the case, and classify them accordingly as either (a) a potential complaint, (b) a general query or (c) a submission on matters of general interest relating to the planning system.

## Complaints

We strive to provide a fair and independent mechanism through which members of the public may submit complaints related to the planning services delivered by local authorities distinct from other complaints handling services such as those of the local authorities themselves and the Office of the Ombudsman.

In addition, the OPR was not established to duplicate roles played by the Standards in Public Office Commission or An Garda Síochána, or as a mechanism outside local authority internal complaints procedures.

In this regard, the Act therefore sets a high threshold for a complaint to be formally examined by the OPR. Firstly, for a complaint to be considered valid, it must relate to the organisation of the relevant local authority and to the systems and procedures used in performing its functions under the Act.

Where a complaint is considered appropriate to our statutory remit, having satisfied ourselves that all existing avenues of complaint have been exhausted or where other avenues may be appropriate, for example the Office of the Ombudsman, we will conduct a preliminary examination of the matters raised. This may involve gathering relevant information, including from the local authority concerned.

## → 3.2 Case Handling

We receive several types of planning-related correspondence through our case handling function including complaints, queries and submissions.

### Case Types

- **Queries** typically seek clarification about how a specific aspect of the planning system operates.
- **Submissions** generally highlight issues relating to national planning policy or statutory provisions and are often illustrated with case studies or other evidence.
- **Complaints** which are generally more complex, are addressed in further detail later in this chapter.



If we conduct a preliminary examination based on the relevant information, records or documents available and we believe that at least one of the below criteria applies, we can then proceed to initiate a formal statutory examination of the complaint.

The criteria are set out under section 31AU(2) of the Act as follows:

Where the local authority concerned

- a. may not be carrying out its functions in accordance with the Act;
- b. is not complying with Ministerial guidelines and policy directives under sections 28 and 29 of the Act respectively;
- c. may be applying inappropriate standards of administrative practice or acting contrary to sound administration;
- d. may be applying systemic discrimination in the conduct of its functions;
- e. may be operating at risk of impropriety or corruption; or
- f. operates in a manner where there are serious dis-economies or inefficiencies.

The Act prohibits the OPR from examining any case with which a local authority or An Bord Pleanála is either involved or could be involved. Accordingly, correspondence relating to individual cases such as planning applications, appeals and enforcement actions are not deemed as valid complaints by the OPR.

In summary, the threshold for making a complaint to the OPR essentially therefore requires evidence of significant and systemic breaches of procedures and failures against a backdrop of a pattern of decision-making.

## Case handling statistics

In 2020, 197 individual cases were received by the OPR. Eighteen of these were from various individuals and all concerned the same specific local issue. For the purposes of this report, these 18 cases are treated as a single case and therefore the analysis below is presented in the context of the 180 unique cases received in 2020.

Figure 9 illustrates the breakdown of the 180 unique cases received. Of cases received, 66% related to potential complaints requiring consideration in the context of section 31AU, 26% were planning-related queries, and the remainder were general submissions.

## 180 Unique Cases Received



Figure 9: OPR cases 2020

While some cases can be handled in a relatively straightforward manner, many of the cases involve the consideration of voluminous and complex technical detail and may require additional information gathering to determine the best course of action.

Processing cases, especially complaints, often requires a series of correspondence with both the customer and the relevant local authority.

The volume of work involved is illustrated by the fact that, while the OPR opened 197 case files in 2020, 347 distinct items of correspondence were received from customers in relation to these cases.

### Consideration of complaints

We are committed to providing a fair and independent mechanism for examining complaints and we will engage with and assist, insofar as possible, those who submit complaints to us. The Act sets a high statutory threshold for a complaint to be valid and formally examined by the OPR.

Of the 180 unique cases received in 2020, 119 were categorised as potential complaints. Following our close consideration of each, 19 of these potential complaints (16%) were considered valid in the context of the OPR’s specific remit.

The outcomes of the 19 valid complaints received in 2020 are as follows:

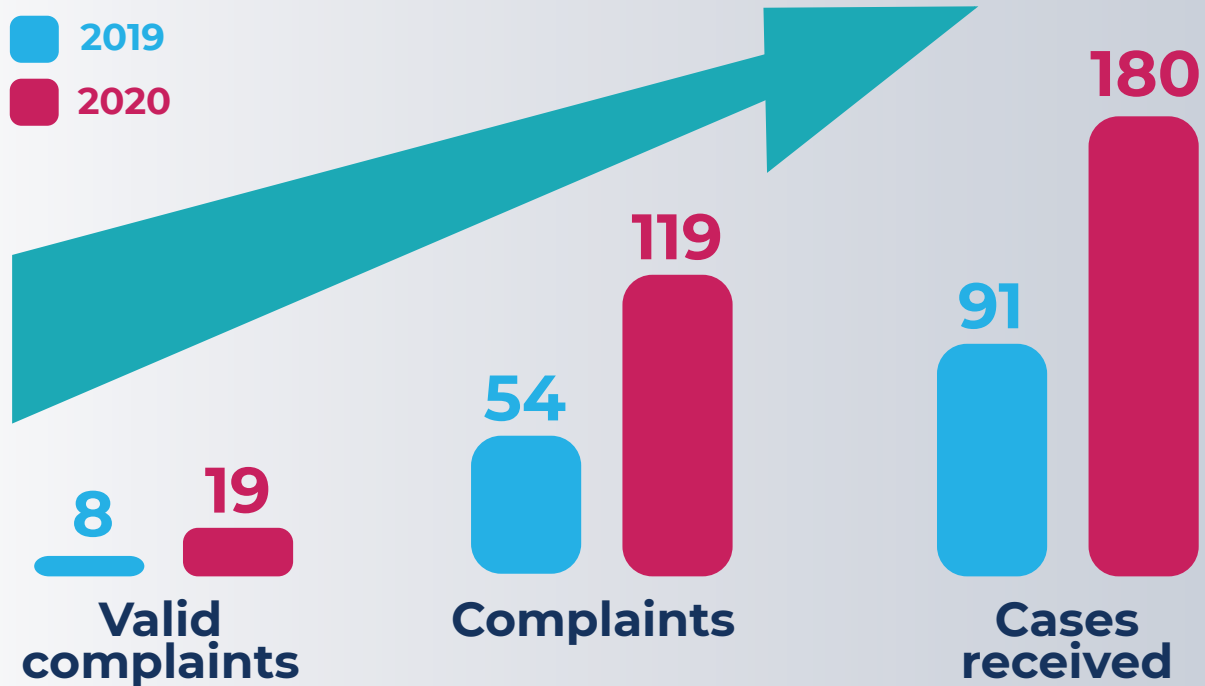
- Three complaints upheld;
- Five complaints not upheld;
- Five complaints had assistance provided (where the OPR provided clarification following contact with the relevant local authority);
- Three complaints subject to finalisation;
- One case discontinued as the additional information requested was not provided by the customer; and
- Two cases referred to the Office of the Ombudsman.



**Figure 10:** OPR complaints 2020

We had increased engagement with members of the public in 2020 through our case handling function. The number of cases received doubled from 91 in 2019

to 180 in 2020; the number of complaints more than doubled from 54 to 119; and the number of valid complaints more than doubled from eight to 19.



**Figure 11:** Increase in cases and complaints from 2019

This shows that the public and other stakeholders are becoming more aware of the OPR. We will continue to promote our role to the public and to increase awareness of the types of complaints that we can and cannot examine in accordance with our statutory remit.

Notwithstanding the limited proportion of valid complaints received, the OPR carefully considers all correspondence received and identifies recurrent themes to inform our wider research, public awareness and training programmes.

The OPR was not established to duplicate roles played by the Standards in Public Office Commission or An Garda Síochána, or as a mechanism outside local authority internal complaints procedures.

Many of the cases received related to individual planning decisions, particularly planning appeals (the specific remit of An Bord Pleanála) and enforcement actions.

Some complaints were about how the customer was treated by a local authority in the context of an individual case (such matters are more appropriate to the Ombudsman’s Office).

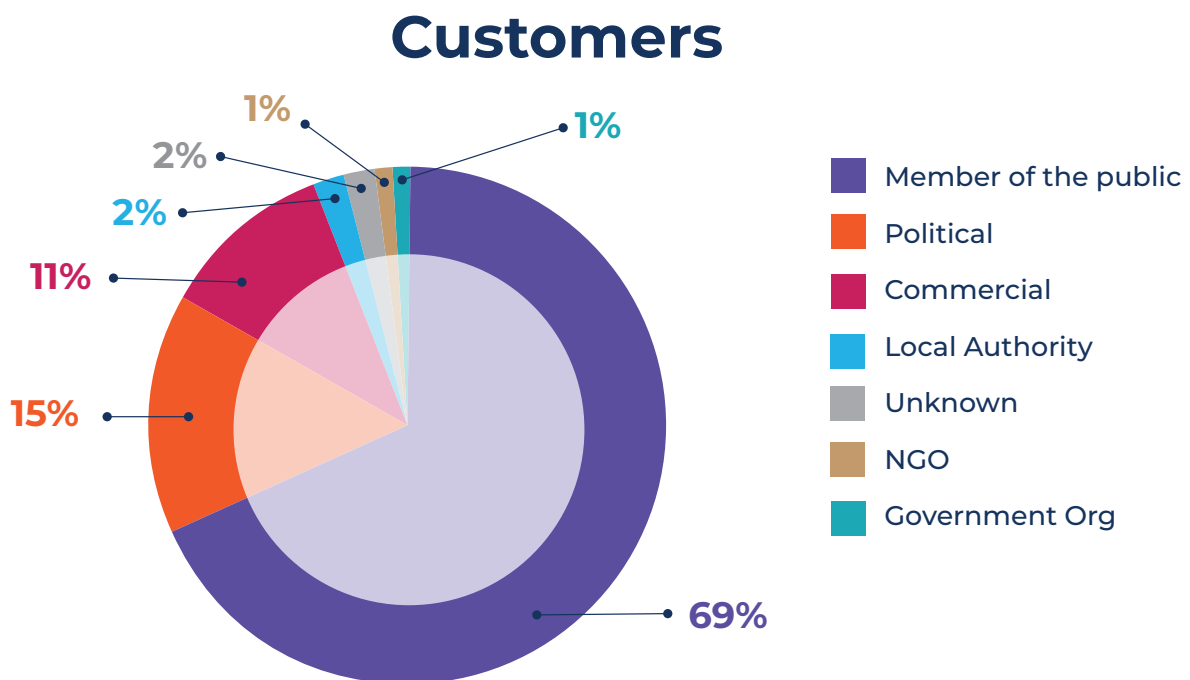
Whether redirecting customers toward the appropriate public bodies, or providing assistance with cases where we can, the OPR is committed to communicating our role in the planning system as clearly and as helpfully as possible to our customers and the wider public.

In 2020, we continued to encourage customers to use our interactive online complaints form when submitting complaints to us.

We also continued to provide customers with information on the type of complaints that we can and cannot consider, and give advice on the appropriate organisation to contact

where we cannot provide assistance. To further this message, we developed a 'complaints infographic' which is available on our website<sup>7</sup>.

We will continue to make the public more aware of our remit and the type of complaints that we can examine under the legislation.



**Figure 12:** OPR Customers 2020

### Cases by customer type and geographic breakdown

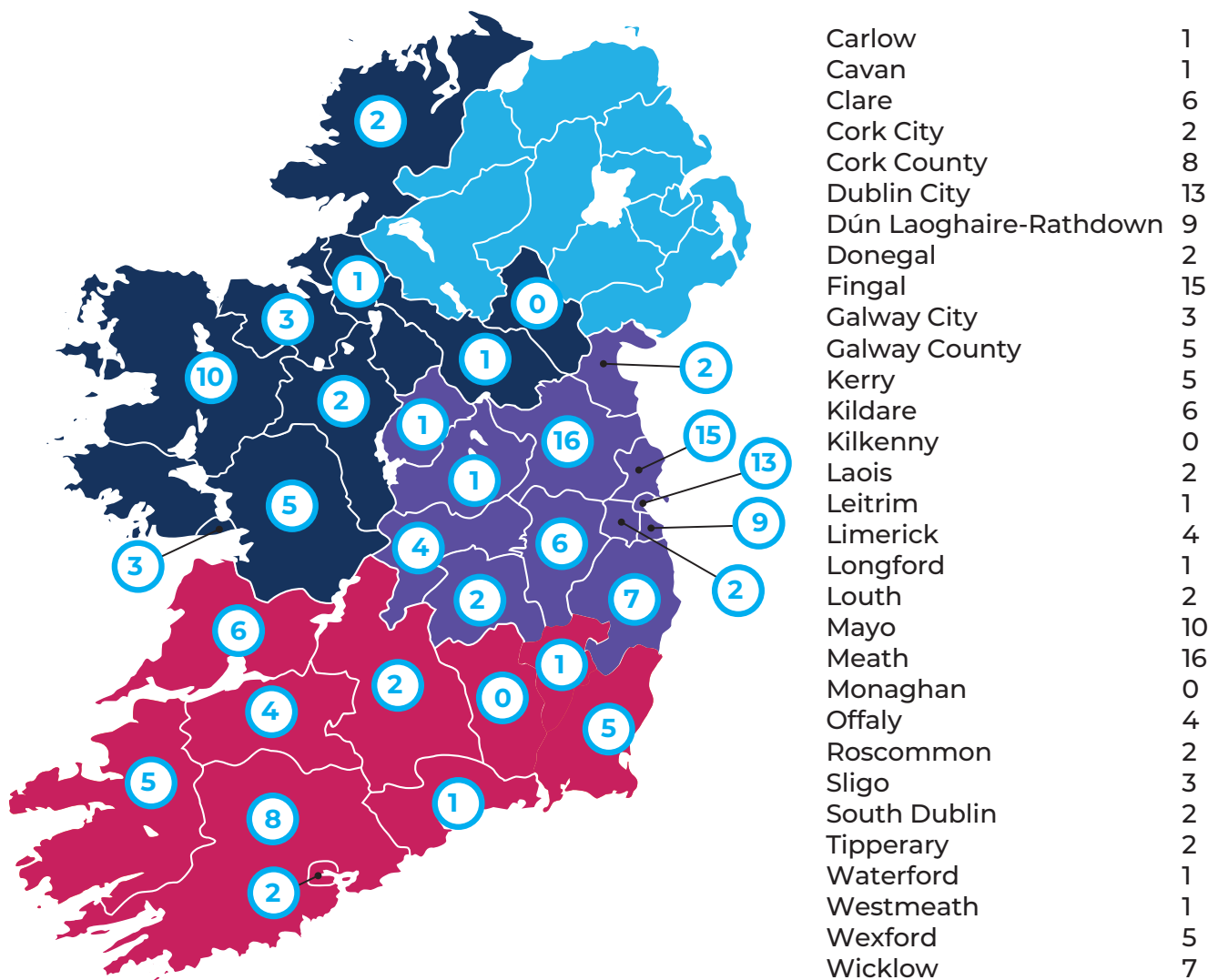
While customers contacting the OPR are mainly members of the public, elected representatives, commercial interests, local authorities, other state organisations, as well as representative bodies all sought assistance from the OPR during 2020.

The breakdown of customers by type is set out below.

The geographic spread of cases received in 2020 is illustrated in figure 13 below. There were 139 geographic references related to cases in 2020. This figure is lower than the 180 unique cases because many of the cases received related to the planning system generally, rather than a particular local authority or area.

<sup>7</sup> [www.opr.ie/information-on-complaints](http://www.opr.ie/information-on-complaints)

## Geographical Breakdown of Cases



**Figure 13:** Geographic Breakdown of Cases

### Cases by theme

While the findings that arise from complaints may be reported to the Minister under section 31AU of the Act, issues identified from processing other cases, i.e. queries and submissions, may also inform the OPR's general function to make observations on the operation of the planning process to the Minister under section 31P(1)(i) of the Act.

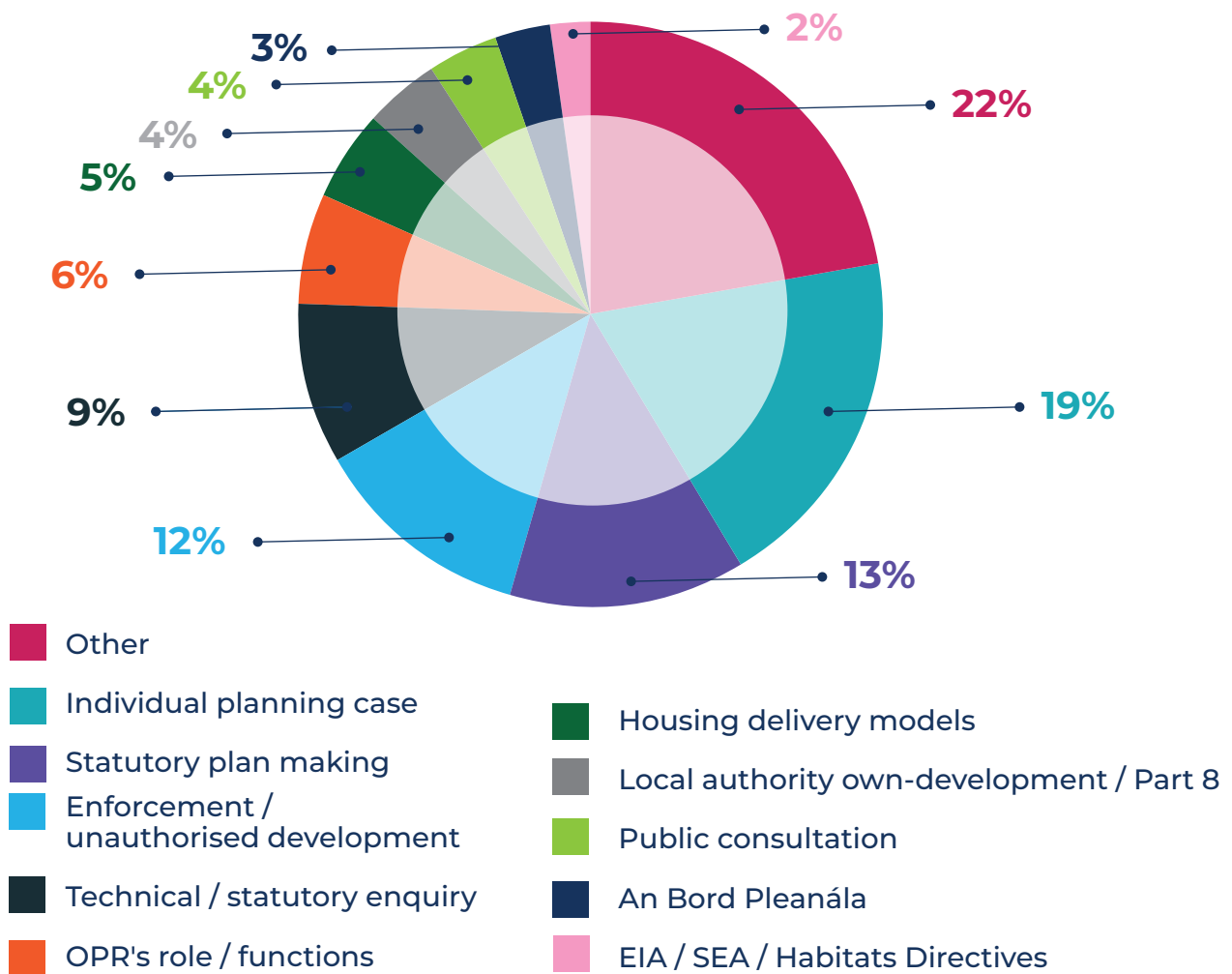
In this regard, we carefully consider the correspondence we receive to identify recurrent themes and to understand the planning issues that concern the public. Monitoring this information over time will not only inform reporting to the Minister but will also inform our reviews, our education and training activities, as well as our research programme.

The OPR's engagement with members of the public on the operation of the planning system offers valuable insights into their experiences, which can inform wider OPR activities, even if individual complaints do not lead to many formal examinations.

A number of clear themes emerged from our case handling during 2020, with individual planning cases, concerns/

queries about plan-making processes and policy and planning enforcement matters being the dominant singular themes. Other recurring themes include queries about the OPR's role or functions and correspondence relating to housing delivery models. The theme of 'other' includes a variety of issues, such as rural housing, vacant/derelict sites, wind energy, access to online planning services, and more.

## Cases by Thematic Background



**Figure 14:** Cases by Thematic Background

## → 3.3 Case studies: complaints received by the OPR

The OPR receives a considerable amount of correspondence from its customers on planning matters each year. The following case studies provide some insights on our handling of such correspondence during 2020 and indicate the type of matters that the OPR has the statutory power to examine.

### Valid complaints

#### 1. Complaint upheld: unenforceable planning conditions

**Subject:** a customer raised a matter regarding difficulties with implementation of a condition of a planning permission controlling noise levels during a construction project. As it was alleged that the local authority had been applying this planning condition in a standardised manner to various grants of permission over a prolonged period, rather than on a one-off occasion, the matter was considered as systemic in nature, making the matter raised a valid complaint which is examinable by the OPR.

**Action:** the OPR conducted a preliminary examination and engaged with both the customer and the local authority, and requested a report from the authority.

**Findings:** on examination of the evidence, including details of noise monitoring reports provided by the authority, it became clear that the noise limit specified did not take sufficient account of other noise sources and would be very difficult to adhere to in practice.

The local authority's report confirmed that the condition was a standardised one used by the authority, but which had not been subject to ongoing review as to its appropriateness and effectiveness from an enforceability perspective. Consequently, the OPR found that the noise condition was not in accordance with the requirement of 'Development Management Guidelines (2007)', issued under section 28 of the Act, which states that any condition imposed must be both enforceable and reasonable.

**Outcome:** as the noise condition was being imposed in a systematic manner by the local authority, i.e. across a number of planning permissions and was not in compliance with the above guidelines, the OPR **upheld** this complaint. The local authority recognised the issue with the condition and subsequently reviewed the use of this condition internally and revised its procedures in relation to conditions on planning permissions. The OPR deemed this a satisfactory response to the upheld complaint and advised the customer of the outcome and the local authority's response.

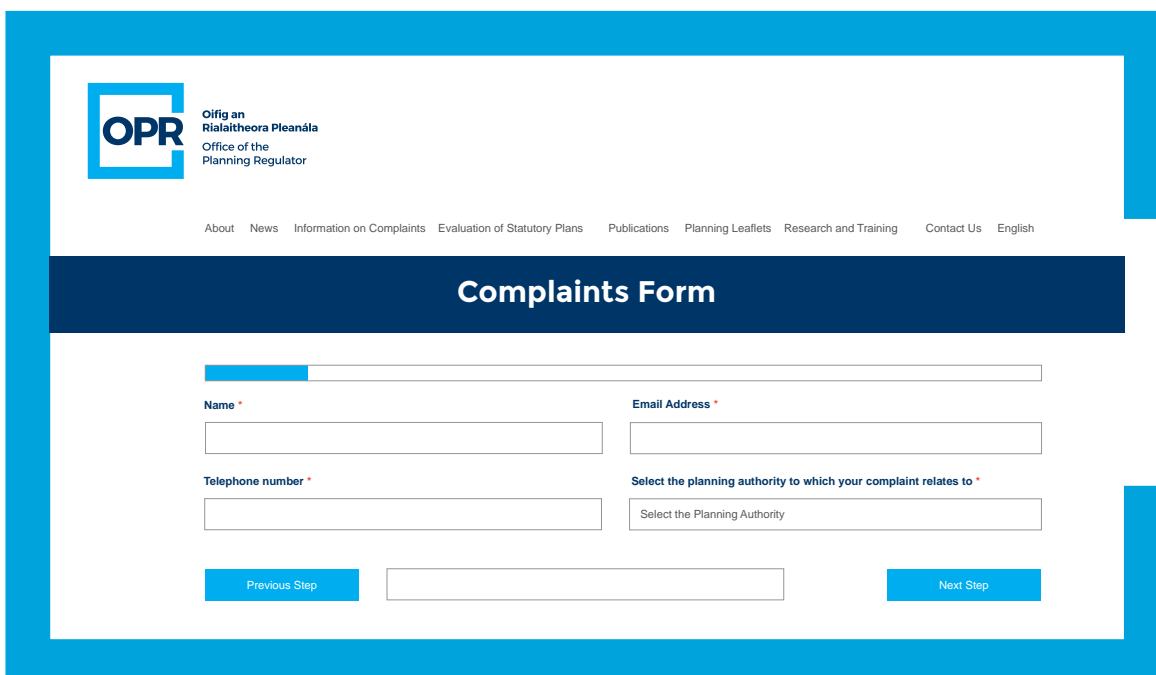
## 2. Complaint not upheld: recording of townland name in relation to zoning proposal

**Subject:** a customer contacted the OPR with concerns as to the manner in which a local authority was proceeding with a variation to one of its statutory plans. It was alleged that local authority staff presented inaccurate information to councillors due to an incorrect townland name being referred to in the minutes of the meeting, which led to the withdrawal by the councillors of a proposed zoning objective.

**Action:** the OPR examined the documentation submitted, including previous correspondence between the customer and the local authority, as well as minutes of the council meeting at which the variation of the plan was discussed. The OPR also engaged with the local authority.

**Findings:** the OPR was satisfied that the local authority executive and councillors followed the correct procedures in presenting information on the variation and in adopting it. The OPR was satisfied that, while there was an error in recording the minutes of the council meeting regarding the name of the relevant townland, it was clear that the councillors were fully aware of the lands in question.

**Outcome:** the OPR decided **not to uphold** this matter as a complaint as the correct procedures were followed by the local authority in the consideration and adoption of the variation in question



The screenshot shows the OPR online complaint form. At the top left is the OPR logo and name. A navigation menu includes: About, News, Information on Complaints, Evaluation of Statutory Plans, Publications, Planning Leaflets, Research and Training, Contact Us, and English. The main heading is "Complaints Form". The form fields are: Name \*, Email Address \*, Telephone number \*, and Select the planning authority to which your complaint relates to \*. Below these are "Previous Step" and "Next Step" buttons.

OPR on-line complaint form



### 3. Assistance provided: procedure for recording reasons for departing from recommendations of planner's report when making a decision

**Subject:** a customer raised a matter with the OPR in relation to an alleged failure to follow certain procedures in the case of a grant of planning permission by the deciding senior planning officer of a local authority, where the recommendation of the planning officer was to refuse permission.

While the decision of a planning authority may differ from the advice and recommendation of relevant technical and professional officers, the planning regulations require that the main reasons for the departure from the relevant recommendations must be included in the notice of the decision. This is because these reasons may be important for any third party when considering whether make an appeal to An Bord Pleanála.

In this case, the customer outlined that the published decision notice did not include a statement of the main reasons for departing from the planner's recommendation. The decision was appealed to An Bord Pleanála and refused permission.

Given that matters to be examined by the OPR must be systemic in nature, in most circumstances a complaint relating to a single application would not be considered as examinable within the OPR's statutory remit. However, the same issue (reasons for rejecting the planner's recommendation not being recorded) was previously noted in relation to similar matters that had arisen in relation to previous cases reviewed in respect of the local authority prior to the establishment of the OPR. Accordingly, the OPR considered this matter as appropriate for preliminary examination.

**Action:** the OPR conducted a preliminary examination of the complaint and engaged with the local authority, requesting a report.

**Findings:** the OPR found from examining the information supplied by the customer and the report of the local authority, that a lapse in procedure had in fact occurred in relation to the planning application.

The local authority recognised this lapse and confirmed that it arose from a particular and exceptional set of administrative circumstances. The local authority also confirmed that there were no similar omissions in recent years in relation to the provision of clear reasons for departing from the recommendations of a planner's report.

The OPR did not find any systemic or procedural issue which could have caused this omission, and was satisfied that the local authority's systems and procedures were generally robust.

**Outcome:** as the lapse in procedure occurred due to exceptional administrative oversight type circumstances, rather than being caused by a systemic issue, the OPR did not uphold this complaint. However, the local authority recognised the procedural lapse and strengthened its procedures as a result. The OPR deemed this a satisfactory response and advised the customer of the favourable outcome, therefore providing assistance to the customer.

#### **4. Referred to Ombudsman: enforcement matter**

A customer raised an issue relating to a local authority planning enforcement case regarding enforcement of planning conditions relating to noise on a wind farm. The OPR sought additional information from the customer to determine if any systemic or procedural issues arose.

On review of the information, the OPR determined that the complaint was more appropriate to the remit of the Office of the Ombudsman. Therefore, with agreement from the customer, the OPR formally referred the complaint to the Office of the Ombudsman under a memorandum of understanding which is in place between the two organisations.

## **Invalid complaints**

### **1. Enforcement**

A customer raised an issue about alleged lack of enforcement of a planning decision. As the complaint related to a single enforcement matter rather than a systemic issue relating to systems and procedures of the local authority, the OPR advised the customer that the matter did not fall under the remit of the OPR. The OPR clarified its role and provided information on the role of the Office of the Ombudsman in dealing with complaints from the public, which can include complaints relating to enforcement in certain instances.

## **2. Individual planning application**

A customer raised concerns about a decision by a local authority on an individual planning application. The customer was dissatisfied with the local authority's decision to refuse planning permission for a one-off rural house. The OPR advised the customer that the issue did not fall under the remit of the OPR because it related to an individual planning application. The OPR advised the customer of the appeals process through An Bord Pleanála.

## **3. An Bord Pleanála**

A customer raised concerns about the manner in which scientific reports, specifically relating to acoustics, are considered in An Bord Pleanála's inspectors' reports and decisions. The OPR advised the customer that this issue did not fall under the remit of the OPR, as the OPR is not empowered to examine complaints about or to revisit decisions made by An Bord Pleanála. The customer was advised of the OPR's role and of its reviews programme, under which An Bord Pleanála will be subject to a general review of its planning functions.

## 4. Education, Training, Research and Public Awareness

### → 4.1 Education and Training

#### Councillor Training

In accordance with the provisions of section 31Q(1)(a) of the Act, the OPR conducts education and training programmes for members of planning authorities in respect of the role of such members under the Act. This is reinforced in Goal 2 of the OPR's Strategy Statement, which states that the OPR will drive "innovation and learning for all ... stakeholders in the planning process".

One of the key actions in achieving this goal is the provision of educational programmes for specific stakeholder groups such as the elected members.

In 2020, the OPR continued to work with the Association of Irish Local Government (AILG) in rolling out a programme of planning training specifically tailored for the elected members of planning authorities. The aim of the programme was to provide enhanced knowledge of the planning process, with a specific focus on the role and responsibilities of the elected members.

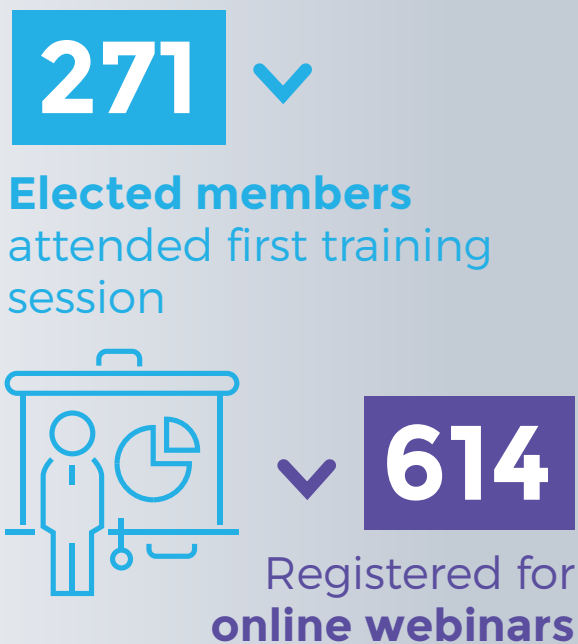
**Glendalough,  
Co Wicklow**



Cllr. John Joe Fennelly, Cllr. Catherine Fitzgerald, Cllr. Aisling Moran, Cllr. Mary Sweeney, Cllr. Conor Bergin, Cllr. Paschal McEvoy, Cllr. John King, Cllr. John Mulhall at the OPR's training event for elected members of local authorities, Cavan, 13 February 2020

The OPR is responsible for preparing material and delivering the training events. Promotion of the events is carried out jointly by the OPR and the AILG. The OPR promotes the training programme via the Directors of Services and Senior Planners in each local authority, through designing and producing promotional flyers and using social media (Twitter and LinkedIn) and via the OPR's news page on the website.

Throughout 2020, five training events were held. They were extremely well attended. In total, 271 elected members attended the first training event while 614 registered for our four online training webinars.



**Figure 15:** Attendees at elected members' training events.

### February Training Event

Building on previous training activities, the OPR's first training event of 2020 for elected members related to the plan-making process and was delivered in February 2020 in Waterford and Cavan.

The training included expert presentations on:

- Procedural considerations involved in the plan-making process including the initiation of plan-making/variation processes, notices of motion, zoning submissions, voting in the chamber, quorums, lobbying, etc.;
- Environmental aspects of the plan-making process (including SEA, AA, Flood Impact Assessment, Climate Change, etc.);
- Emerging Draft Development Plan Guidelines which are being prepared by the Department of Housing, Local Government and Heritage; and
- The OPR's draft Plan Evaluation Methodology.

Following the onset of the Covid pandemic, the OPR moved its elected member training to online webinars. Four online training webinars were delivered during 2020 in addition to the Waterford and Cavan training event.



David Nevin, OPR, Senior Planner at training event for elected members, Cavan, 13 February 2020

### July Training Webinar

The first online webinar entitled “Planning and the Local Elected Member” focused on:

- An overview of planning in Ireland and the functions of officials and elected members; and
- The role of the elected member in making a development plan.

### September Training Webinar

The second online webinar entitled “Guidance for Councillors on the Initial Stages of Preparing Development Plans and their Core Strategies” provided information regarding:

- The early stages of the plan preparation process; and
- The purpose of the Core Strategy and the linkages to the Housing Strategy.

### October Training Webinar

The third webinar entitled “Consideration and Finalisation of the Draft Development Plan” focussed on:

- The assessment of submissions following public consultation including the OPR submission and other statutory consultees’ submissions; and
- Making the plan including the processes associated with dealing with any modifications, material amendments and Ministerial Directions.

This was the last webinar in the first module of planning training for elected members which dealt specifically with the plan-making process.



Deputy Planning Regulator, Anne Marie O'Connor at the webinar for elected members of local authorities, 27 November 2020

### November Training Webinar

The second module of planning training for elected members was launched in November 2020. This module is 'A Guide for Councillors on the Development Management Process'.

The first webinar in the second module entitled 'Implementation of the Development Plan and the Development Management Process' provided information regarding:

- The role of the elected member in the development management process; and
- The link between the elected members' plan-making function and the development management process.



**Figure 16:** Local Authority Staff Training Topics



### Resources for Elected members

Respecting the fact that not all elected members (949 in total across Ireland) can attend each and every event, all the resources (presentations, papers and illustrations) and videos of on-line events are hosted on our website and can be accessed by any local elected member at any stage.

### Local Authority Staff Training

In accordance with the provisions of section 31Q(1)(b) of the Act, the OPR is mandated to conduct education and training programmes for staff of local authorities in respect of such matters as the OPR considers are of relevance to the functions of the local authority, particularly relating to proper planning and sustainable development.

### Collaboration between the OPR and the IPI

The Irish Planning Institute (IPI) launched a series of four on-line Continuous Professional Development (CPD) courses for all professional planning staff in April 2020. The courses were made available to all staff working in planning authorities and regional assemblies, whether or not they were IPI members.

The Planning Regulator and Deputy Planning Regulator addressed the first two online planning training events organised by the IPI in April and May and delivered presentations on:

- Urban Regeneration and Place Making Strategies; and
- Environmental Impact Assessment.

The OPR actively supported and promoted these sessions as they examined topics of significant relevance to the planning profession.

### Development of a Sectoral Learning and Development Strategy

In Q4, the OPR in conjunction with the Local Government Management Agency (LGMA) and the City and County Management Association (CCMA) commenced preparations to develop a strategic overview of the learning and development needs of the staff working in the planning and development functions of the 31 local authorities.

The intention is to formulate a 3-5 year strategy for addressing such needs by various stakeholders, including the OPR. This work is expected to continue throughout 2021 with a view to developing a comprehensive sectoral learning and development strategy.

## → 4.2 Research

### National Planning Knowledge Group

As noted above, section 31Q(1) of the Act provides that one of the core functions of the OPR is to conduct education and training programmes for members of planning authorities and of regional assemblies and for staff of local authorities or regional assemblies. Section 31Q(2) of the Act provides that the OPR shall conduct research in relation to matters relevant to its functions as well as any other matters requested by the Minister.

The Act enables the OPR under section 31Q(3) to enter into arrangements with any person or body that the OPR considers to be suitably qualified to perform its research, education and training programmes.

In order to gain familiarity with existing research, and to ascertain the most pertinent knowledge, training and public awareness needs of the various stakeholders involved in the planning process, the OPR established the National Planning Knowledge Group (NPKG) in late 2019.

The NPKG acts as an advisory committee for the OPR on the current state of the knowledge base in relation to both pressing and strategic planning matters and gaps to be addressed in conjunction with stakeholders. The OPR provides the secretariat for the group.

The NPKG includes representation from the higher education and research sector, governmental and non-governmental organisations, the business community, local government, the environmental sector and planning institutes representing professional planners engaged in both public and private sector work. The group met three times in 2020.

### Research and Training Page

In Q2 of 2020 a dedicated Research and Training page was developed and launched on the OPR's website. This page hosts a broad range of planning-related research material, training material and the OPR's planning library. The aim of the page is to provide both planning and non-planning professionals with a wide-ranging, up-to-date facility where they can access information relevant to their areas of work, study and research.

The page is subdivided into three distinct categories namely:

- i. The Planning Library;
- ii. The Training Page; and
- iii. The Research Page.



**Figure 17:** Research and Training Page

The Planning Library contains a comprehensive spectrum of planning-related resources such as circulars for planning authorities, guidelines for planning authorities and policy reports and policy directives for planning authorities. Work continued throughout 2020 on developing the OPR's online planning library, including the development of an acronym list and a technical glossary. In tandem with this, and on the recommendation of the NPKG, the OPR embarked on a campaign to promote the use of the planning library particularly amongst the professionals who work on the periphery of the planning system.

The Training Page is further divided into three distinct areas:

- i.** Elected Members Training Page;
- ii.** Local Authority Staff Training Page; and
- iii.** Regional Assembly Training Page.

The elected members training page contains all of the documentation that was prepared for the councillor training events as mentioned above.

The Local Authority Staff and Regional Assembly Training Pages will be populated with material prepared for training events for these groups in the future.

The dedicated Research Page will contain output from the OPR's Planning Research Framework and the associated Strategic Planning Research Programme including material relating to:

- i.** Planning issues;
- ii.** Planning performance; and
- iii.** Planning practice.

### **Planning Research Framework and Strategic Planning Research Programme**

In Q3, the OPR published its first Planning Research Framework and Strategic Planning Research Programme. These documents combined establish a roadmap to advance Goal 2 from the OPR's Strategy Statement. The purpose of the Framework is to guide the design and delivery of the OPR's research programme for the next two years.

The Strategic Planning Research Programme identifies specific research projects that will be pursued by the OPR for a two-year period 2020-2022. The Framework will guide the design and delivery of the OPR's research programme for the next two years.

The Framework sets out the overarching goal for the OPR's research programme and will inform project selection. The Framework also sets out a three-strand structure for research projects, delivery options and outputs, together with an evaluation criteria and project roadmap template.

### **OPR Research Output**

In 2020, consistent with the Research Framework, the OPR advanced work on several research projects within the Research Programme.

## Strand One - Planning Issues

In Q3, the OPR joined the Environmental Protection Agency (EPA) Climate Research Coordination Group's steering group on the Five-Year Assessment Report on Climate Change; specifically volume 2 'Achieving Climate Neutrality by 2050'. This work will take place over a 24 month period and will be completed in 2022.

## Strand Two - Planning Performance

Throughout 2020 work continued on finalising the 'Measuring Planning Outcomes' research project led by the Royal Town Planning Institute (RTPI) in conjunction with a number of funding partners including the OPR, the Irish, Scottish, Welsh and English Governments. 'Measuring Planning Outcomes' is a research project that considers how planning outcomes can be measured in order to demonstrate the impact of planning and improve the outcomes over time. The research report and associated toolkit were published and formally launched on World Town Planning Day in November.

## Strand Three - Planning Practice

Under Strand Three (Planning Practice) of the Research Programme, extensive work was undertaken on drafting Practice Note 01, which deals with the subject of Appropriate Assessment Screening. The practice note will be published in Q1 of 2021. Also within Strand Three of the Research Programme, the design of a practice application for managing timelines in the development plan commenced in Q4 of 2020. Following further software design and testing, the application is expected to go live on the OPR's website in Q1 of 2021.

## → 4.3 Public Awareness

### Eco Eye Episode

In Q1, an episode of the popular RTE Eco Eye series, produced by Earth Horizon Productions Ltd with joint sponsorship by the OPR and the Healthy Ireland initiative of the Department of Health, aired on RTE 1 television. The episode focused on the benefits of good spatial planning from a community and public health perspective. The episode achieved audience ratings of 518,400 and exceeded the viewership ratings for all of the eight other programmes in series 18 of the Eco Eye programme.

Following the success of the previous collaboration, the OPR continued to engage with Earth Horizon Productions Limited throughout Q2 of 2020 and sponsored the production of three further episodes of Eco Eye. Filming of the episodes commenced in Q3. Great cooperation was received from local authority officials, state agencies, Higher Education Institutes and members of the public. It is expected that the programmes will be aired on RTE 1 television in Q1 of 2021.

The themes for the three episodes are:

- i.** The future for Irish cities under Project Ireland 2040;
- ii.** Current examples and initiatives for revitalising towns and villages; and
- iii.** Options for rural housing and settlement in Ireland.



Duncan Stewart, Presenter, Eco Eye with Guilia Vallone, Senior Architect, Cork County Council

### **Planning Week 2020**

Planning Week 2020 took place from the 8th to 14th November and coincided with World Town Planning Day on 8th November.

The OPR collaborated with the Irish Planning Institute and the Planning Society of TU Dublin on a series of initiatives which highlight the aims and objectives of good planning.



*“The OPR is an organisation that engages with the key stakeholders in the planning system in a number of ways.”*

Carton Demesne, Co Kildare



Niall Cussen, Planning Regulator and Dr Conor Norton, President, Irish Planning Institute launch Planning Week 2020.

### **Planning Leaflet Series**

In Q4, the OPR carried out an extensive review of the old planning leaflet (PL) series in consultation with An Bord Pleanála, the Environmental Protection Agency (EPA), the Department of Agriculture, Food & the Marine and the National Monuments Service and in conjunction with the Department of Housing, Local Government and Heritage for publication in 2021.



Westport,  
Co Mayo

## 5. Corporate Affairs

### → 5.1 Governance

The OPR was established as a statutorily independent body. In exercising its functions, the OPR is wholly independent and is accountable to the Oireachtas and the Minister as a publicly funded organisation. The OPR's governance structure, as prescribed by the Act, is that of an office holder rather than a non-executive board structure and its day-to-day functioning is administered by the organisation's executive.

#### Executive Management Team (EMT)

The EMT consists of the Planning Regulator and the three Directors, one of whom is the Deputy Planning Regulator, and meets weekly under a standing agenda. The meetings provide a forum for, inter alia, regular strategic and operational review of the functioning of the organisation, including risk assessment, financial management, approval of policies and management of resources.

#### Gender Balance in the Executive Management Team Membership

As at 31 December 2020, the Executive Management Team (EMT) had two (50%) female and two (50%) male members.

The EMT therefore meets the Government target of a minimum of 40% representation of each gender in the membership of State Bodies' leadership.



The OPR is building a values driven culture which will be key in maintaining and supporting gender balance on the EMT and promoting gender balance, diversity and inclusion in its operations.

### Finance, Audit and Risk Committee

The OPR’s governance structure, pursuant to section 31N of the Act, is that of a corporation sole/office holder. While the OPR is not mandated to establish committees which standardly operate as committees to non-executive boards, in the interests of transparency and accountability and following best practice, the OPR established a Finance, Audit and Risk Committee (FARC) in line with guidance provided within the Code of Practice for the Governance of State Bodies. The role of the FARC is to support the Planning Regulator in relation to his responsibilities for issues of related controls, corporate governance

and associated assurance. Members of the Committee were appointed, and the Committee was established on 1 January 2020. The FARC met five times in 2020.

Members of the Committee are:

External Members:

Pat Macken (Chairperson)

Lorraine O’Donoghue

Executive Members:

Joanna McBride, Director of Research, Training and Corporate Services

Gary Ryan, Director of Reviews and Examinations

Valerie Halpin – Secretary to the Committee

Following is the schedule of meetings held by Finance, Audit and Risk Committee during 2020.

**Table 4: Finance, Audit and Risk Committee meetings**

Attendance	Meeting dates				
	31-Jan-20	12-Mar-20	25-Jun-20	08-Oct-20	07-Dec-20
Pat Macken	✓	✓	✓	✓	✓
Lorraine O’Donoghue	✓	✓	✓	✓	✓
Joanna McBride	✓	✓	✓	✓	✓
Gary Ryan	✓	✓	✓	✓	✓

## Performance Delivery Agreement and Oversight Agreement

One of the key requirements of the Code of Practice for the Governance of State Bodies 2016 is that Departments and bodies under their aegis should put in place an Oversight Agreement and a Performance Delivery Agreement which should form an integral part of the strategic and operational framework for the agency. In that regard, an Oversight Agreement and a Performance Delivery Agreement between the Department of Housing, Local Government and Heritage and the OPR were in place in 2020. Both documents are reviewed and updated regularly.

To further strengthen the governance framework of the OPR, regular liaison meetings between senior management of the Department of Housing, Local Government and Heritage and the OPR take place to monitor performance and governance matters as well as to provide a forum for regular discussion on matters affecting the statutory functions of both organisations.

## Risk Management

Risk Management is one of the key requirements to ensure good corporate governance and agile organisational responsiveness to risk. The Executive Management Team, including the Chief Risk Officer, and the Finance, Audit and Risk Committee have the overall responsibility for overseeing risk management within the organisation determining the organisation's risk appetite and the continuous review of the Risk Register throughout the year.

The OPR operates under a comprehensive risk management framework, including a risk appetite statement, risk register and a Risk Management Policy. As part of the continuous review of the risk management framework, the EMT carried out an assessment of the OPR's principal risks, including a description of these risks, and associated mitigating measures.

## Internal Audit

In 2020, the OPR instituted an internal audit function with appropriately trained personnel, which operates in accordance with a written charter. Its work is informed by the analysis of the financial risks to which the OPR is exposed and its annual internal audit plans are based on this analysis. These plans will aim to cover the key controls on a rolling basis over a reasonable period. The OPR's internal audit in 2020 was carried out by Mazars.

## System of Internal Control

The OPR ensures that an effective system of internal control is maintained and operated at all times. The OPR's monitoring and review of the effectiveness of the system of internal control is informed by the work of the internal and external auditors, the FARC, which oversees their work, and the senior management within the OPR responsible for the development and maintenance of the internal control framework. The OPR performed an annual review of the effectiveness of the internal controls for 2020.

## **Code of Practice for Governance of State Bodies**

The OPR has adopted the Code of Practice for the Governance of State Bodies (2016) and has put procedures in place to ensure compliance with the Code. The OPR was in compliance with the Code of Practice for the Governance of State Bodies for 2020, with the exception of the following provision:

- Provisions in relation to role of An Bord Pleanála, role of the Chairperson and role of Board members. The stewardship structure of the OPR is atypical. There is no Board structure. The Planning Regulator undertakes the collective role of a Board. Therefore, in addition to performing his duties as a “Board”, the Planning Regulator also performs executive functions.

Recruitment campaigns commenced in late 2020 resulted in the appointment of five additional staff who took up positions in early 2021.

The OPR operates its recruitment primarily under a license granted by the Commission for Public Service Appointments (CPSA), which was obtained in April 2019. Open panels via the Public Appointments Service are also utilised, where appropriate.

Staff of the OPR are civil servants and are remunerated in line with Government policy. The Planning Regulator is remunerated at the civil service grade of Assistant Secretary.

## **Our Premises**

Following extensive work to secure our permanent office premises, the fit out and other preparatory work was completed in Q4 of 2020 and we have taken occupation of the premises at Park House which is part of the TU Dublin campus under development in Grangegorman, Dublin 7. This development is guided by the Government’s Strategic Development Zone (SDZ) for the regeneration of that area.

Co-location of the OPR on the TU Dublin campus will offer considerable synergies with a range of education, training and research capabilities through its school of the built environment. Synergies would also be available in relation to easy and cost-effective access to meeting and training room facilities.



## **5.2 Continuing to Build the Organisation**

Following our first full year of operations, we continued to build the foundations and the resourcing capacity necessary for the operation of our organisation. This included further recruitment and moving to our permanent premises at Park House, Grangegorman in Dublin 7.

### **Building our Team**

The OPR has an approved complement of 26 fulltime staff, including the Planning Regulator. Following establishment, a number of recruitment campaigns were carried out and these continued throughout 2020. Pending the conclusion of the campaigns, the OPR had 21 staff as at 31 December 2020.



The new OPR premises are located in Park House, Grangegorman, Dublin 7

## Our Methodologies

In order to deliver our statutory functions in relation to plans evaluation and planning reviews in a consistent, fair and transparent manner, methodologies were drafted in 2020 setting out internal systems and procedures for the evaluation and assessment of statutory plans, and the reviews of the systems and procedures used by planning authorities in the delivery of planning services.

### Reviews methodology

To guide and structure the OPR reviews programme, in 2020 the OPR prepared and published a pilot methodology for conducting reviews of planning authorities' systems and procedures in their performance of planning functions. The methodology is available on our website: <https://opr.iw.ie/view-file/18>.

The methodology was developed with the assistance of the Department of Housing, Local Government and Heritage, the National Oversight and Audit Commission, the local government sector, An Bord Pleanála, the national planning institutes and wider stakeholder engagement.

The methodology has been developed to ensure the general reviews programme is implemented in a fair and consistent manner. It sets out the various inputs and steps for the OPR, its reviewers and planning authorities throughout the review process.

### **Plans methodology**

Following a process of consultation and advice from appropriate expertise, the OPR published in November 2020, a 'Draft Methodology for the Evaluation and Assessment of Statutory Plans under Section 31AM and Section 31AO of the Planning and Development Act 2000 (as amended)'. The draft was prepared as an internal manual to support an effective, efficient and consistent approach to conducting the evaluation and assessment of statutory plans. In that regard, it is anticipated that the 'Plans Evaluation Methodology 2021 (V.1)' will be published in 2021.

### **Transition to OGCIO**

In line with the Public Service ICT Strategy, in which one of the objectives is to provide Build-to-Share (BTS) services for public service bodies that achieve economies-of-scale, the OPR transitioned to the BTS Managed Desktop platform provided by the Office of the Government Chief Information Officer (OGCIO) in 2020.

This platform provides the OPR with access to enterprise-class managed ICT services while also achieving the best possible value-for-money through access to the OGCIO's procurement agreements with technology vendors. Additionally, the OPR will use the OGCIO's BTS software applications to enhance its ICT capabilities, including introducing document management and case management systems.

Access to these software applications will provide collaboration tools and information-sharing capabilities, further improving the OPR's ability to collaborate effectively with stakeholders.

### **Policies and Procedures**

Since our establishment, we have implemented a suite of policies and procedures that provide an important basis for the day-to-day functioning of the organisation. In addition to these, we have implemented the Civil Service policies and codes, including the Dignity at Work and The Civil Service Code of Standards and Behaviour. Throughout 2020, we continued to review and update existing policies and implement additional policies, where relevant, to ensure the continuous strengthening of the governance and operational footing of the OPR.

### **Code of Conduct and Conflict of Interest**

Procedures are in place to ensure that staff of the OPR comply with the provisions of Ethics in Public Office Act 1995 and Standards in Public Office Act 2001, where applicable. In addition, the OPR has developed a Code of Conduct for managing conflict of interest, pursuant to the provisions of Section 31AL of the Planning and Development (Amendment) Act 2018. Under the Code, all staff members of the OPR and the Chief Executive register their interests by way of a statutory declaration.

## Health and Safety

In 2020, the OPR complied with the Safety, Health and Welfare at Work Act 2005 and the Safety, Health and Welfare at Work Act (General Applications) Regulations 2007. We adhered to health and safety policies and procedures and we provided appropriate training to staff. We have also put in place a Safety Statement and nominated a Health and Safety Officer.

Since the onset of the Covid pandemic, OPR staff have been working remotely since March 2020 in line with public health advice issued by Government.

In advance of returning to an office-based environment, the OPR developed a Return to Work Safely Response Plan which sets out the policies and practices necessary to meet the Government's Return to Work Safely Protocol and to prevent the spread of Covid in the workplace. This plan is reviewed on an ongoing basis and amended to take account of updated public health advice and guidance.

A Lead Worker Representative has been nominated and works with the Executive Management Team to ensure the implementation of measures to prevent the spread of Covid and continuously monitors adherence to the measures within the workplace. In that regard, control measures have been put in place in the OPR premises to prevent and eliminate the spread of Covid.

Mandatory training for all staff was delivered in July 2020 and further sessions will be provided prior to the resumption of office based working.

The OPR complies with all public health advice issued regarding Covid.

## Freedom of Information (FOI) and Access to Information on the Environment (AIE)

The OPR is a public body for the purposes of the Freedom of Information Act 2014. In addition to the provisions of the FOI legislation, information on the environment may be sought from the OPR under the Access to Information on the Environment Regulations 2007-2018.

Details of activity in 2020 are provided below and are also available on the OPR website<sup>8</sup>:

<b>Table 5: FOI / AIE Requests 2020</b>	<b>FOI</b>	<b>AIE</b>
Granted	1	1
Partially Granted	0	1
Withdrawn	0	0
Transferred	0	0
Refused	1	0
<b>Total requests received</b>	<b>2</b>	<b>2</b>

<sup>8</sup> <https://www.opr.ie/freedom-of-information/>  
<https://www.opr.ie/access-to-information%20on-the-environment%20/>

## **Data Protection and the General Data Protection Regulation**

The OPR is committed to protecting the rights and privacy of individuals in accordance with the General Data Protection Regulation (GDPR), which came into effect in May 2018, and the Data Protection Acts 1988, 2003 and 2018.

As required by the regulation, the OPR has a dedicated Data Protection Officer. The Data Protection and Data Privacy policies have been updated in the organisation. The Data Protection and Data Privacy policies are kept under regular review by the Data Protection Officer and were updated in 2020 to reflect data protection legislation and guidance notes which were issued by the Data Protection Commission.

In 2020, no personal data requests were received by the OPR and there were no instances of personal data breaches.

## **Irish Language**

The Official Languages Act 2003 sets out the duties of public bodies regarding the provision of services in the Irish language and the rights of the public to avail of those services.

In August 2020, the OPR was officially captured on the list of public bodies obliged to comply with the provisions of the Official Languages Act.

In order to adhere to the duties outlined in the Act, the OPR has contracted external translators to ensure any relevant documentation as well as some of the information on our website is translated and published in a timely manner. The OPR logo, stationery and email signatures are in a bilingual format and all relevant publications such as the Annual Report and Strategy Statement are also published bilingually.

The OPR produced an Irish language policy in 2020 to ensure best practice in relation to the use of the Irish language throughout its work. The OPR also complies with its statutory responsibilities under section 31AA of the Act in relation to the provision of services through the Irish language and a designated staff member has been assigned to deal with any oral queries received in Irish. To this end, the knowledge of the Irish language is included as an important criterion in our recruitment campaigns.

The Official Languages (Amendment) Bill was published in December 2019. This Bill intends to implement a new system using regulations to set out language standards for public bodies who come under the scope of the Act. Once the OPR is advised of its obligations under the new regulations, it will put together a process to fulfil these obligations.

## Public Sector Equality and Human Rights Duty

Section 42 of the Irish Human Rights and Equality Commission Act 2014 imposes a statutory obligation on public bodies in performing their functions to have regard to the need to:

- Eliminate discrimination;
- Promote equality of opportunity and treatment for staff and persons to whom it provides services; and
- Protect the human rights of staff and service users.

The OPR has nominated an Access Officer who will, in as far as it is reasonable and practicable, coordinate assistance and guidance and generally act as a point of contact for people with disabilities wishing to access our services.

## Protected Disclosures Act 2014

The OPR has put in place procedures for the making of protected disclosures, under a Protected Disclosures Policy, in line with the Protected Disclosures Act. These procedures set out in detail the process by which an employee of the OPR can make a protected disclosure, what will happen when a disclosure is made and what the OPR will do to protect the discloser. The process supports the OPR's commitment to fostering a working environment where employees feel comfortable in raising concerns relating to potential wrongdoing within the OPR and to provide the necessary supports for those that raise genuine concerns. This working environment reflects the OPR's core values, especially those of integrity, professionalism, openness and transparency.

Under Section 22 of the Protected Disclosures Act 2014, the OPR is obliged to prepare and publish, no later than 30 June in each year, a report detailing the number of protected disclosures made during the preceding year and the action (if any) taken in response to those protected disclosures.

Pursuant to this requirement, no protected disclosures were received in 2020 and the annual report on protected disclosures has been submitted to our parent Department and published on our website.

## Energy Usage 2020

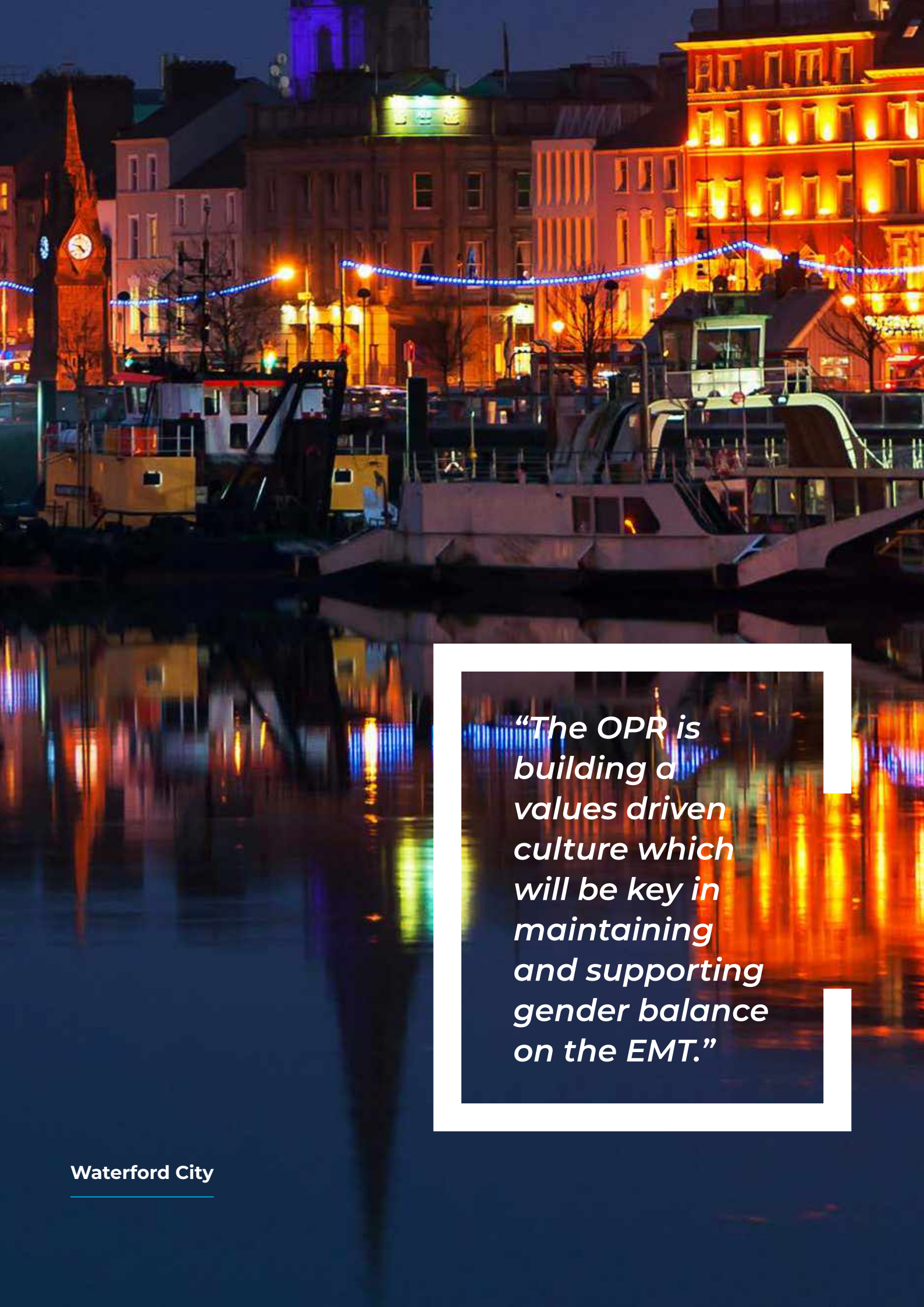
The OPR has been liaising with the Sustainable Energy Authority of Ireland (SEAI) regarding energy consumption and completed its energy reporting requirements for 2020, which was the OPR's baseline year for reporting.

The OPR is committed to reducing its environmental impact as far as possible. To this end, staff are supported by a number of initiatives including the travel-pass and bike-to-work schemes and provision of good quality cycle facilities that have resulted in a high usage of sustainable travel modes.

## → 5.3 Financial Information

The OPR's budget is allocated through the Department of Housing, Local Government and Heritage Vote 34, subhead D.5. In 2020, the OPR's budget totalled €2,569,000. An external accountancy firm, Crowleys DFK assists the OPR in the management of the accounts function and the preparation of financial reports and statements.





*“The OPR is building a values driven culture which will be key in maintaining and supporting gender balance on the EMT.”*

The OPR's banking services are provided by Danske Bank.

In its operations, the OPR ensures value for money and sound financial management by complying with the Public Spending Code, including National and EU Public Procurement Procedures and financial management rules, as well as the provisions of the Act as laid out in Section 31AG ensuring accountability and transparency.

### **Financial Statements**

The Financial Statements of the OPR, including the Statement on Internal Control and the Governance Statement, are prepared in accordance with FRS102, the financial reporting standard applicable in the UK and Ireland issued by the Financial Reporting Council (FRC), as promulgated by Chartered Accountants Ireland. The Financial Statements of the OPR are subject to audit by the Comptroller and Auditor General and the audit of 2020 accounts will take place in 2021. Once certified by the Comptroller and Auditor General, the financial statements will be laid before the Houses of the Oireachtas and will be published on the OPR website.

### **Tax Law**

The OPR has complied with its obligations under tax law in 2020.

### **Procurement**

The OPR is committed to achieving value for money and implementing the most effective procurement processes.

As a public body, the OPR utilises central frameworks and contracts put in place by the Office of Government Procurement (OGP) when procuring a range of commonly required goods and services. Where no central framework or contract is available, the OPR operates in accordance with European Union (EU) Procurement Directives. The OPR has a dedicated Procurement Officer and finalised its Corporate Procurement Plan in 2020.

All contracts awarded with a value of over €25,000 and the Corporate Procurement Plan are published on the OPR website.

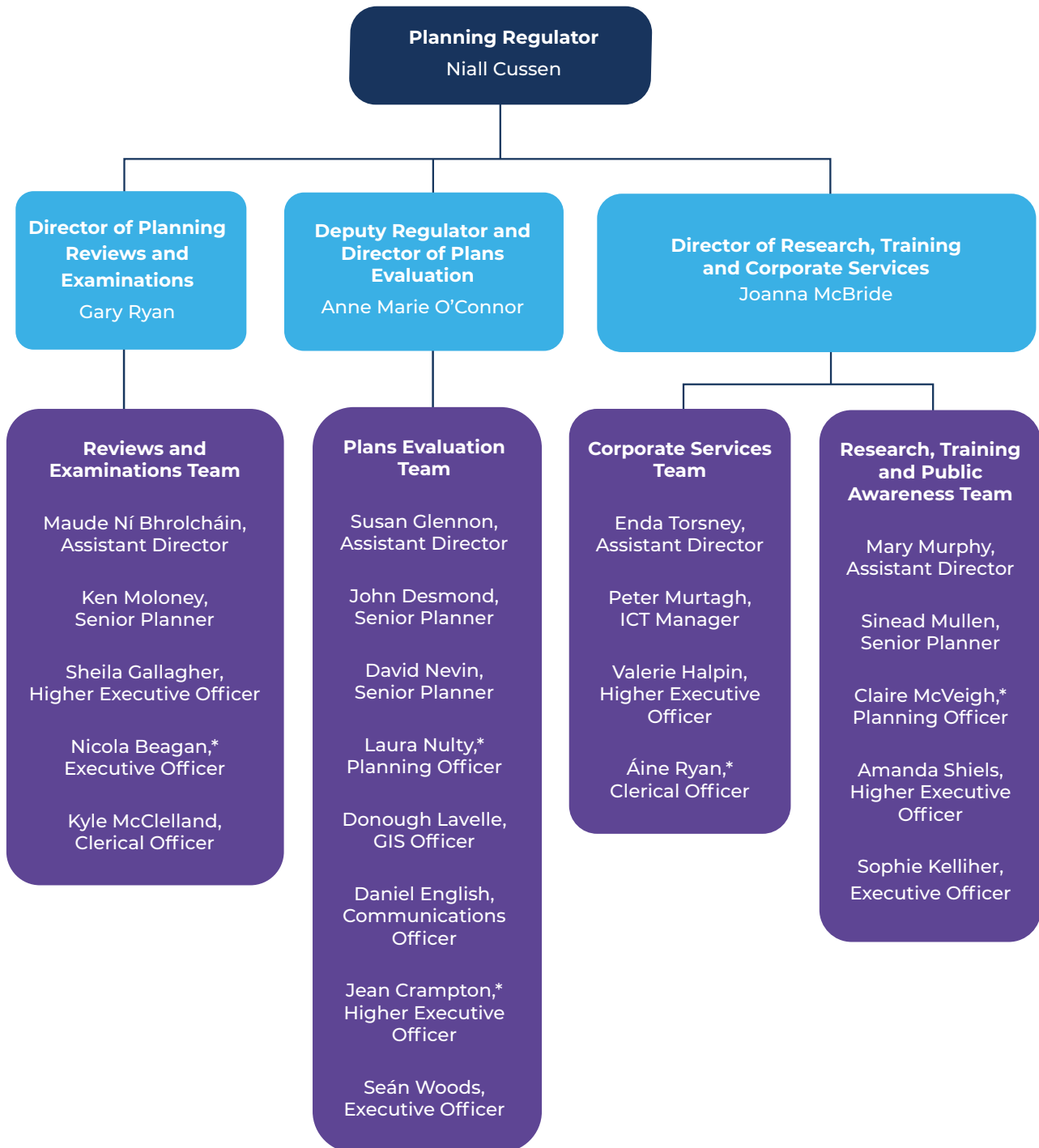
### **Prompt Payments of Accounts Act 1997**

The OPR complies with the provisions of the Prompt Payments of Accounts Act 1997. The OPR has introduced procedures to ensure that invoices are paid within the statutory time limit. The OPR posts its quarterly prompt payment reports on its website.

### **Oireachtas members' enquiries**

The OPR provides a dedicated enquiries email address [oireachtas@opr.ie](mailto:oireachtas@opr.ie) for members of the Oireachtas seeking information about the work of the OPR.

# Staff Information



\* Staff appointed in early 2021



**Curracloe Beach, Co Wexford**

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Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

# Annual Report 2020

## Part II: Planning in Context Key Statistics

# Contents

<b>6. Introduction</b>	<b>80</b>
<b>7. Forward Planning</b>	<b>82</b>
7.1 Statutory Plans	82
7.2 Local Area Plans (LAPs)	84
7.3 Strategic Development Zones (SDZs)	87
<b>8 Development Management</b>	<b>90</b>
8.1 Number of Planning Applications	90
8.2 Validation of Planning Applications	91
8.3 Planning Permissions Granted	94
8.4 Applications Granted: Regional Distribution	96
8.5 Applications Granted: Use-type	97
8.6 Residential Development	99
8.6.1 Housing Unit Type Mix	99
8.6.2 Location of Residential Units	101
8.6.3 Strategic Housing Development	103
8.6.4 Residential Completions	105
8.7 Non-Residential Development	107
8.7.1 Renewable Energy Sector	109
8.7.2 Strategic Infrastructure Development	110
8.8 Retail (The Future for Traditional Retailing in Town Centres)	111
<b>9. Planning Appeals</b>	<b>116</b>
9.1 Planning Appeals	116
9.2 Reversal of Decision on Appeal	117
<b>10. Enforcement, Land Management and Legal Challenges</b>	<b>120</b>
10.1 Planning Enforcement	120
10.2 Land Activation	121
10.3 Legal Challenges	121
<b>11. Other Relevant Data</b>	<b>126</b>
11.1 Finance: Cost Recovery	126
11.2 Staffing and Resources	127

# Planning in Ireland

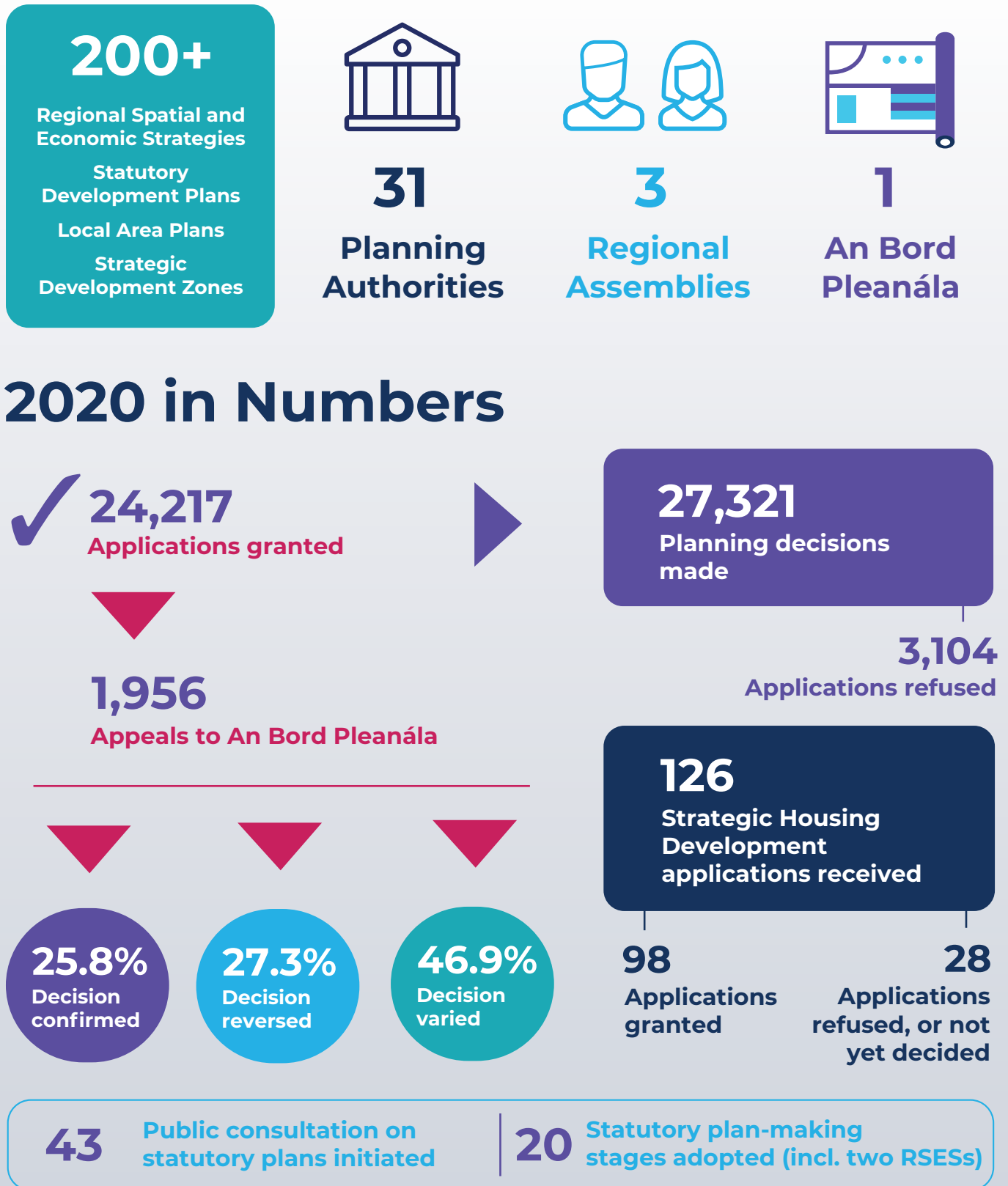


Figure 1: Planning in Ireland 2020

## 6. Introduction

While Part I of the Annual Report takes stock of OPR's functions throughout 2020, the analysis in Part II provides a strategic overview of key trends and outputs over the year in the wider planning system in Ireland. This analysis includes an interesting comparison with patterns in previous years, which is the only analysis of its kind of the Irish planning system by a state authority.

Statistics in relation to the planning process are published each year by the Central Statistics Office (CSO)<sup>9</sup>, the National Oversight and Audit Commission (NOAC)<sup>10</sup> the Department of Housing, Local Government and Heritage and An Bord Pleanála (the Board)<sup>11</sup>. The OPR has analysed and drawn together a sample of this data to provide an overview of the functioning of the planning process in Ireland in 2020, as well as key trends over previous years and in relation to some of the datasets, by reference to relevant interval points. Analysis of trends on an ongoing basis will enable monitoring in the years ahead.

The OPR is working with the Department of Housing, Local Government and Heritage, the local government sector and wider stakeholders to improve the range of information sources that can be used to track the functioning of planning processes and the quality of the outcomes they secure.

O'Connell  
Street,  
Dublin

<sup>9</sup> <https://www.cso.ie/en/statistics/construction/planningpermissions/>

<sup>10</sup> <https://noac.ie/wp-content/uploads/2021/05/Final-NOAC-Annual-Report-2020.pdf>

<sup>11</sup> <https://www.pleanala.ie/en-ie/publications>



This will take into account the broader roles of local government oversight bodies, such as the NOAC, which publishes indicators across the broad range of local authority functions, three of which concern planning.

We have examined the available statistics in relation to five key headings, the first four of which reflect the core functions of local authorities and the Board and the fifth relating to the resourcing of the planning system:

1. Forward planning;
2. Development management;
3. Planning appeals;
4. Enforcement, land activation and legal challenges; and
5. Resourcing.

In the context of the wider analysis above, Part II of the Annual Report also offers an opportunity to examine particular planning topics. This year, analysis has been undertaken in relation to the retail sector in view of the significant challenges it faces arising from changes in consumer habits and the impacts of the Covid pandemic.

Analysis of the data available in relation to the overall working of Ireland's planning process indicate that the demands placed on it have increased significantly in recent years and that this trend continued in 2020.

Local authorities have discharged their statutory duties against a backdrop of increasing workloads, enhancing the stock of planning permissions. It is the activation of these permissions which is key to the successful operation of the planning system especially in the case of housing.

Data on development plans prepared, planning applications and appeals processed, and enforcement cases addressed only reflects part of the work of local authorities. Local authorities also undertake a very significant volume of additional work related to planning, in the areas such as development promotion, urban and village renewal, rural development and land activation.

However, for the purposes of ascertaining the main workload pressures and outputs from the planning system from available data sources, our analysis focuses on key indicators related directly to planning functions including forward planning, development management and planning appeals.

## 7. Forward Planning

### → 7.1 Statutory Plans

Statutory plans include regional spatial economic strategies (RSEs), development plans and local area plans (LAPs). In 2020, 20 statutory plans or variations/ amendments to existing plans were adopted, compared to 31<sup>12</sup> in 2019. These included two RSEs<sup>13</sup>, for the Southern Regional Assembly (SRA) and for the Northern and Western Regional Assembly (NWRA) areas, 15 variation notifications to existing development plans<sup>14</sup> and three LAPs.

Figure 2 indicates the number of statutory plan review stages that have been subject to consultation, annually, for the ten year period to 2020. The data shows the number of notifications made to the Department of Housing, Local Government and Heritage, up until April 2019, and, from that point on, to the OPR in relation to statutory plan-making consultations, where the Department of Housing, Local Government and Heritage or the OPR would make a submission. This includes RSEs; issues papers for development plan reviews; draft development plans; draft LAPs; variations and amendments to development plans; LAPs and RSEs and material amendments to draft statutory plans<sup>15</sup>.

<sup>12</sup> An incorrect figure of 30 was included in the 2019 Annual Report.

<sup>13</sup> The Department was the evaluating authority in the case of the RSEs.

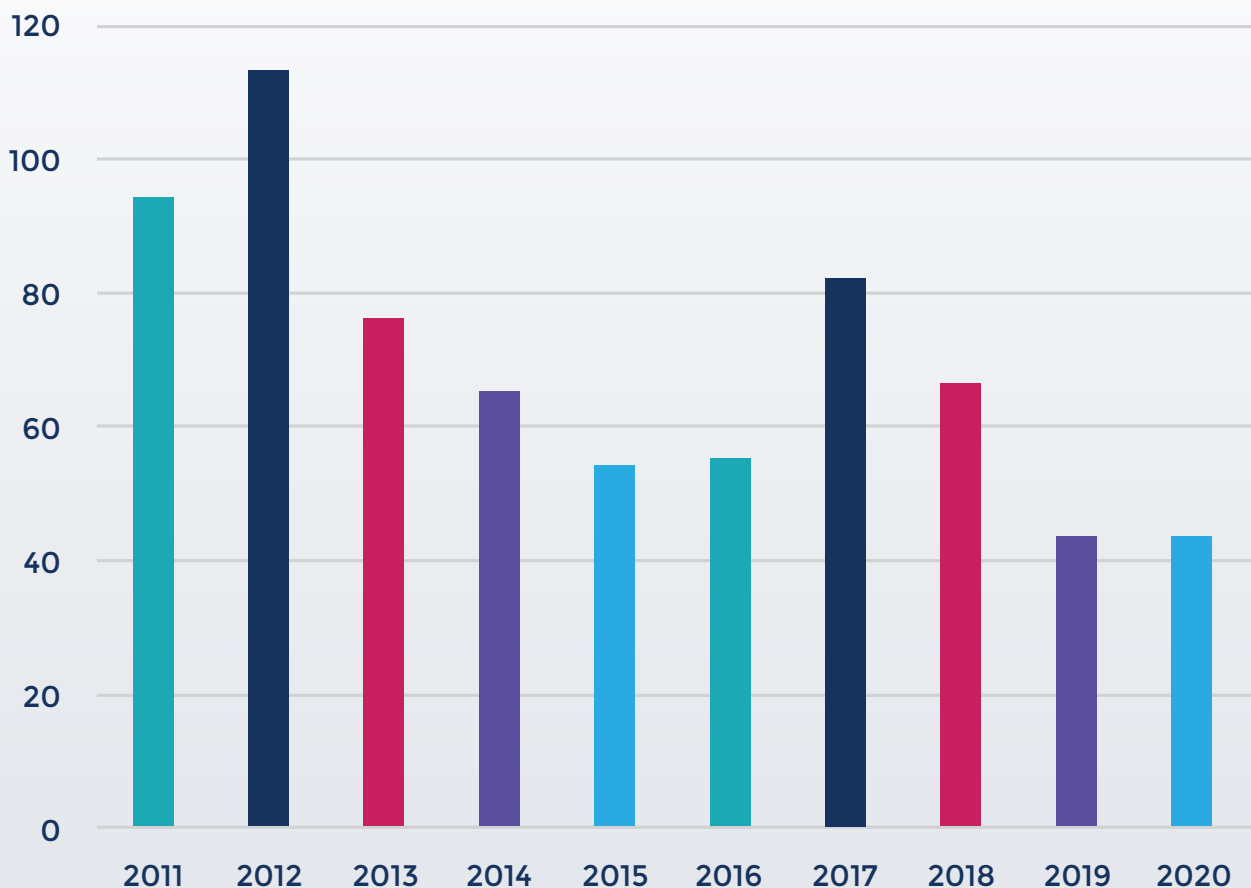
<sup>14</sup> In some cases a notification of a proposed variation may relate to multiple individual variations, as in the case of variations 8-27 for Dublin City Development Plan in 2019. For the purposes of the Annual Report these are considered as a single variation.

<sup>15</sup> In practice, the Office will usually make submissions on issues papers published for LAPs, however there is no requirement for the local authority to prepare same under the Act.

The data indicates that over this period, the absolute number of statutory plans, particularly LAPs, prepared by local authorities was relatively elevated in the earlier part of the decade, reaching 113 notifications in 2012.

This represents a peak in plan making, over the longer term plan making (in absolute numbers) has declined to a low of 43 notifications in 2019.

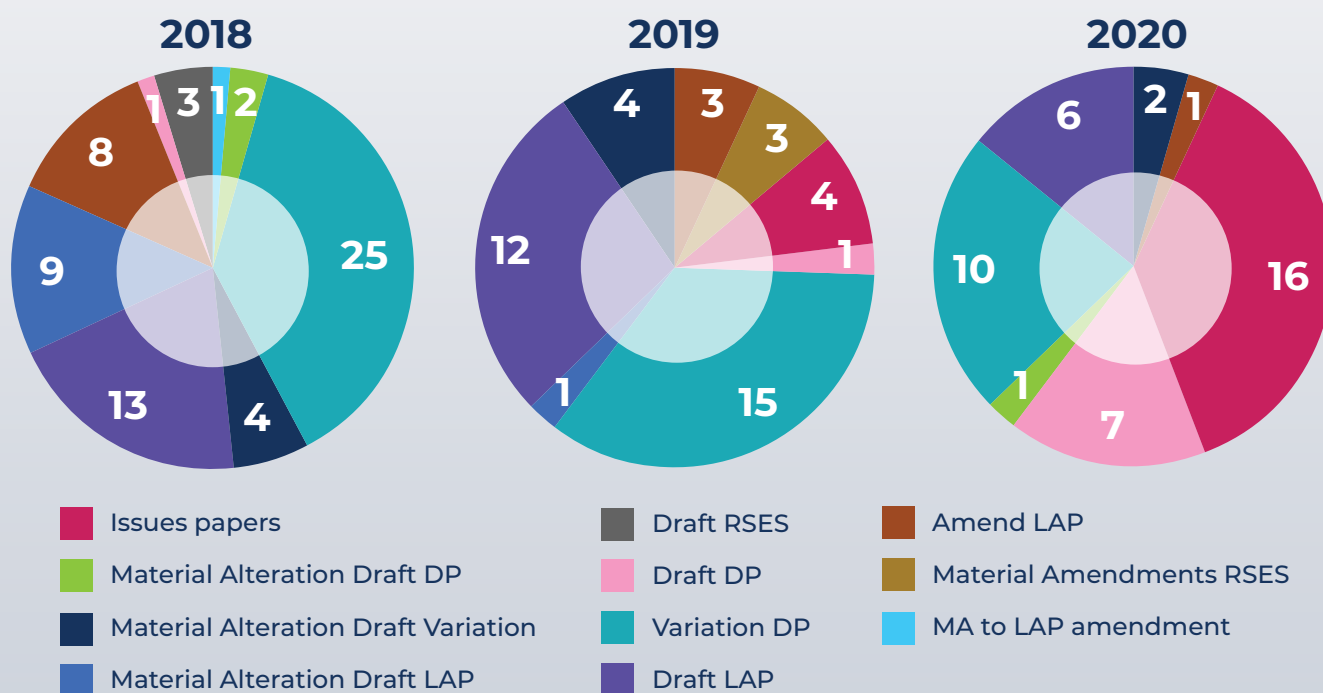
The likely reasons for the pattern over the decade was considered in detail in last year's annual report.



**Figure 2:** Plans notified for consultation, per annum 2011-2020 (DHLGH & OPR)

The number of notifications issued in 2020 continued in relatively low figures similar to 2019. It can be anticipated that due to the current stage of the six-year development plan making cycle, which includes a c.2 year plan preparation period, the forward planning resources of the 31 local authorities have continued

to be primarily focused on the task of preparing county or city development plans. In addition, as LAPs are required to be consistent with the development plan, the preparation of LAPs tends to follow after the adoption of the development plan.



**Figure 3:** Number of plan making stages notified for consultation 2018, 2019 and 2020<sup>16</sup> (DHLGH & OPR)

Figure 3 illustrates the number and proportion of different plan types for which notices were issued by local authorities in 2020, 2019 and 2018.

The recommencement of the development plan preparation process, after the legislative-imposed hiatus, is evident in 2019 when four issues papers and one draft development plan were published following the making of the EMRA RSES in June 2019.

The resurgence in development plan preparation is increasingly evident in 2020 with 16 issues papers for the development plan reviews and seven draft development plans published. This follows the making of the RSESs for the other two regional assemblies of SRA and the NWRA early in 2020.

Over the three years, the number of draft variations dropped from 25 to 15 to 10 and the number of draft LAPs declined from 13 to 12 to 6. These statistics would confirm that local authorities are concentrating their forward planning resources on the preparation of the development plan.

## → 7.2 Local Area Plans (LAPs)

Under the Planning Act, LAPs are required for all towns<sup>17</sup> with populations over 5,000 in the last census. LAPs are also required for towns with populations more than 1,500 and fewer than 5,000, unless the local authority opts to include objectives for such towns in the relevant county development plan.

<sup>16</sup> Excluding notification of consultations on Planning Schemes for Strategic Development Zones.

<sup>17</sup> Designated as a town in the most recent census.

In addition, a local authority is entitled to prepare a local area plan for any area it deems suitable.

this may be extended, in certain limited circumstances, by a resolution passed by the local authority.<sup>18</sup>

Anecdotally, it would appear that many local authorities are electing to include objectives for smaller towns into the development plan rather than preparing separate LAPs. Generally, LAPs have an operative period of six years, although

Table 1 indicates a list of larger census towns (>20,000 population), in order of population, from the 2016 census returns of the CSO and the years in which the statutory plan was prepared for those towns by the relevant local authority.

Settlement	Population (CSO 2016)	Statutory Plan	Year adopted
Drogheda	40,956	Drogheda Borough Council Development Plan 2011-2017	2011
Swords <sup>19</sup>	39,248	No LAP or town development plan	N/A
Dundalk	39,004	Dundalk & Environs Development Plan 2009-2015	2009
Bray	32,600	Bray Municipal District Local Area Plan 2018 - 2024	2018
Navan	30,173	Navan Development Plan 2009-2015	2009
Kilkenny	26,512	Kilkenny City Development Plan 2014-2020	2014
Ennis	25,276	Ennis & Environs Development Plan 2008-2014	2008
Carlow	24,272	Carlow Town Environs Local Area Plan 2012-2018 (contained within the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012 – 2018) - extended to 2022 Carlow Town Development Plan 2012-2018	2012 2012
Tralee	23,691	Tralee Municipal District Local Area Plan 2018-2024	2018
Newbridge	22,742	Newbridge Local Area Plan 2013 - 2019 - extended to December 2021	2013 (extended in 2018)
Portlaoise	22,050	Portlaoise Local Area Plan 2018 – 2024	2018
Balbriggan	21,722	Balbriggan Stephenstown Local Area Plan	2007
Naas	21,393	Naas Town Local Area Plan 2011-2017	2011
Athlone	21,349	Athlone Town Development Plan	2014
Mullingar	20,928	Mullingar Town Development Plan	2014
Celbridge	20,288	Celbridge Local Area Plan 2017-2023	2017
Wexford	20,188	Wexford Town and Environs Development Plan	2009

**Table 1:** Schedule of larger census towns (>20,000 population) and publication date of their statutory plans

<sup>18</sup> The resolution shall be passed no later than 5 years after the first making of the LAP.

<sup>19</sup> The non-statutory Swords Masterplans were adopted in May 2019.



## Bray, Co Wicklow

The table indicates that the existing LAPs (or development plan for the former town councils and county borough councils<sup>20</sup>) for the majority of the country's largest towns were adopted more than six years ago. This pattern would appear to be replicated across the country for smaller towns for which LAPs are mandatory.

LAPs play a vital role in ensuring the implementation of the parent development plan and national and regional policy at local level and it is essential that they address ongoing planning issues.

This signals a priority for the review of older LAPs for such settlements when statutorily required and appropriate to do so.

We continue to engage with local authorities in the context of our plans assessment and reviews functions in pressing for the timely review of LAPs in line with statutory obligations.

<sup>20</sup> In the case of former town councils and county borough councils abolished in 2014, the existing development plans for those settlements continue to have effect until the adoption of the new development plan.

## → 7.3 Strategic Development Zones (SDZs)

An SDZ is a planning scheme made by a local authority on foot of an order of Government designating a site or sites for establishing a strategic development

zone, in order to facilitate specified development of economic or social importance<sup>21</sup>. These generally cover extensive, strategically located sites, such as the Dublin Docklands area (North Lotts and Grand Canal Dock SDZ).

SDZ Scheme	Local Authority	Year designed
Adamstown	South Dublin	2001
Clonmagadden	Meath	2001
Hansfield	Fingal	2001
Clonburris-Balgaddy	South Dublin	2006 & 2015
Cherrywood	Dun Laoghaire Rathdown	2010
Monard	Cork County	2010
Grangegorman	Dublin City	2010
Dublin Docklands	Dublin City	2012
North Quays	Waterford City and County	2016
Poolbeg West	Dublin City	2016
Ireland West Airport Knock	Mayo	2017

**Table 2:** Designated Strategic Development Zones

Such schemes tend to be more prescriptive in terms of the nature, form and layout of development to be facilitated and infrastructure requirements. Once a scheme has been approved, the local authority must grant permission where a development proposal is consistent with the scheme and must refuse development that is not consistent. SDZs therefore provide a significant element of certainty for developers.

Eleven such schemes have been approved since 2003, with the greater portion (seven) since 2012 and three since 2018<sup>22</sup>.

As would be expected, the majority of SDZs have been made in Dublin, with four made outside this area – Clonmaggadden (Meath), Monard (Cork) and Ireland West Airport Knock (Mayo), in addition to Waterford North Quays.

<sup>21</sup> Under section 166 of the Act.

<sup>22</sup> All but one have been through the Board's approvals procedure which results from an appeal against the scheme



**Dublin Docklands, Strategic  
Development Zone**





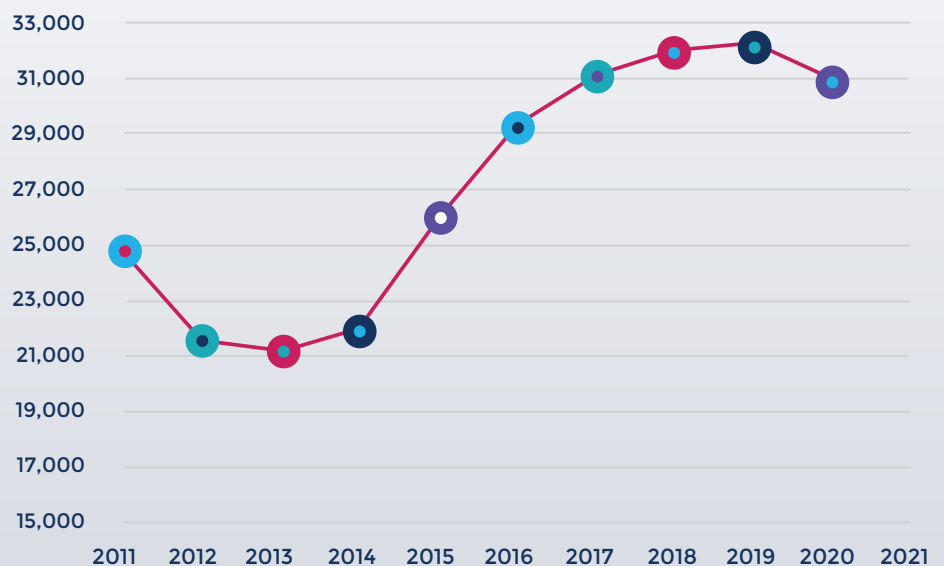


**Clock Tower,  
 Waterford  
 Quays**

## 8 Development Management<sup>23</sup>

### → 8.1 Number of Planning Applications

The level of planning applications made each year to local authorities tends to mirror wider economic trends. As can be seen from Figure 4, the total number of planning applications submitted in 2020 decreased marginally (by 1,306) from 2019, with just over 31,000 valid applications made. This may be reflective of the six week pause in the planning system witnessed in Q2 at the onset of the pandemic.



**Figure 4:** Number of valid applications per annum 2011-2020

<sup>23</sup> There is a long standing divergence between the CSO and DHLGH datasets for grants of permissions. Both sets of data essentially rely on the same core datasets, however the DHLGH make differing decisions as data compilers as to what should be included or excluded in their datasets and as to when something is counted, primarily as the DHLGH data relates to the planning application process rather than outcomes.

## → 8.2 Validation of Planning Applications

Planning applications act as the basis for planning decisions. They are complex, legal documents that require careful preparation in order to comply with the legislative provisions to appropriately inform the public and to enable the local authority to carry out a thorough assessment of development proposals. Accordingly, a planning application which does not meet the preliminary requirements for assessment (i.e. it is not accompanied by legislative-compliant documentation<sup>24</sup>) may be declared invalid and returned to the applicant before its technical and policy merits are considered.


The percentage of invalidated applications as a proportion of all applications made is referred to as the “invalidation rate”. Although the national average invalidation rate has been relatively stable over the last decade, it has been marginally increasing each year, from 13.9% (4,197 invalid applications) in 2015 to 17.1% (6,378 invalid applications) in 2020. This increase in percentage rates is equivalent to an extra c.1,180 applications being declared invalid in 2020.


As can be seen from Table 3, the invalidation rate varies widely between individual local authorities. For example, in 2020 the rate was 31.2% for Tipperary, compared to 2.2% for Monaghan. A similar pattern is apparent in other years.

Year	2016	2017	2018	2019	2020
<b>National rate</b>	14.3%	15.3%	15.5%	16.4%	17.1%
<b>Standard deviation</b>	6.8%	6.9%	7.3%	6.9%	6.8%
<b>Carlow</b>	18.9%	20.4%	28.9%	25.3%	18.5%
<b>Cavan</b>	5.5%	7.0%	7.2%	10.3%	11.1%
<b>Clare</b>	9.1%	3.9%	5.0%	5.7%	5.4%
<b>Cork</b>	24.3%	25.2%	22.6%	22.0%	23.9%
<b>Donegal</b>	19.4%	18.9%	16.7%	20.2%	20.1%
<b>DLRCC</b>	13.3%	14.2%	18.8%	14.6%	17.9%
<b>Fingal</b>	10.5%	14.8%	14.5%	14.0%	19.5%
<b>Galway</b>	6.7%	6.5%	5.0%	10.5%	10.1%
<b>Kerry</b>	7.0%	7.6%	9.6%	10.0%	13.7%
<b>Kildare</b>	13.4%	15.2%	14.0%	12.8%	24.5%

<sup>24</sup> The documentation to be submitted with a planning application, as specified under Part 4 of the Planning and Development Regulations 2001, as amended.

Year	2016	2017	2018	2019	2020
<b>Kilkenny</b>	6.8%	6.9%	9.9%	10.2%	8.5%
<b>Laois</b>	24.1%	21.2%	19.0%	18.1%	17.6%
<b>Leitrim</b>	27.4%	27.8%	34.4%	28.2%	18.0%
<b>Limerick City &amp; Co</b>	8.4%	11.2%	8.5%	9.0%	14.8%
<b>Longford</b>	17.9%	13.1%	11.6%	10.9%	5.9%
<b>Louth</b>	13.3%	11.5%	15.6%	17.5%	18.3%
<b>Mayo</b>	4.5%	4.8%	5.5%	5.6%	5.7%
<b>Meath</b>	14.7%	13.8%	17.6%	20.8%	17.1%
<b>Monaghan</b>	5.4%	2.3%	4.3%	4.1%	2.2%
<b>Offaly</b>	12.3%	16.2%	13.7%	16.7%	24.9%
<b>Roscommon</b>	21.5%	19.2%	19.6%	23.9%	22.5%
<b>Sligo</b>	19.8%	15.1%	15.8%	20.2%	16.4%
<b>South Dublin</b>	8.3%	9.9%	7.9%	7.2%	4.9%
<b>Tipperary Co Co</b>	18.7%	28.9%	25.3%	29.2%	31.2%
<b>Waterford City &amp; Co</b>	14.3%	10.4%	10.4%	13.3%	13.8%
<b>Westmeath</b>	6.1%	10.8%	11.0%	10.0%	8.0%
<b>Wexford</b>	11.5%	22.6%	23.6%	20.5%	15.5%
<b>Wicklow</b>	23.8%	17.9%	21.3%	20.0%	16.9%
<b>Cork city</b>	2.8%	4.0%	9.9%	16.8%	16.1%
<b>Dublin city</b>	17.3%	16.8%	16.9%	21.3%	21.5%
<b>Galway city</b>	5.3%	7.6%	6.7%	4.3%	7.4%

 The planning authority's rate is lower than the national rate by in excess of the standard deviation

 The planning authority's rate is higher than the national rate by in excess of the standard deviation

**Table 3:** Invalid applications as a percentage of valid applications

The data for 2020 indicates that the rate for eight local authorities changed markedly compared to 2019, either increasing or decreasing by at least 5 percentage points. The most significant of these changes related to Kildare, increasing from 12.8% to 24.5% (bringing it well in excess of the national average) and Leitrim declining from 28.2% to 18.0% (bringing it into line with the national average), departing appreciably from their rates over the previous five years. The rates for Offaly and Carlow also experienced significant changes.

While many local authorities may diverge significantly from the national rate in any one year, an examination of rates over the last five years indicates that certain local authorities have invalidation rates that are consistently<sup>25</sup> and significantly divergent<sup>26</sup> from than the national rate.

While more authorities (eight) exhibit markedly lower rates than markedly higher rates (three) over the period (these local authorities are highlighted in the left hand column), there are no immediately obvious factors to explain the differences, such as an urban and rural divide. The rate at which planning applications are deemed invalid by a local authority will largely depend on the quality of the documentation submitted by applicants and their agents. However, internal procedures and processes implemented by the local authority can be anticipated to also play a role.

For example, some local authorities provide regular briefings for agents who prepare planning applications to apprise them of the mandatory requirements to be met for a planning application to be made validly. Changes to legislative requirements over time (e.g. in relation to environmental matters) and, in particular those introduced in 2020 in relation to making documentation available online within five working days may be a factor in increased invalidation rates in some areas. This underscores the importance of proactively engaging with agents, particularly for those regularly submitting applications that fail to meet mandatory requirements.

There is potential, therefore, for local authorities to benefit from the approaches implemented by others in order to ensure the number of invalidated applications is minimised, while ensuring that relevant, high quality documents and drawings form the basis of planning decisions.

The OPR has commenced further analysis of this area through its research function and its reviews function. It is envisaged that in 2021, the OPR will be able to publish findings from our reviews and research in the interests of promoting good practice and learning between local authorities.

<sup>25</sup> At least three out of the five years.

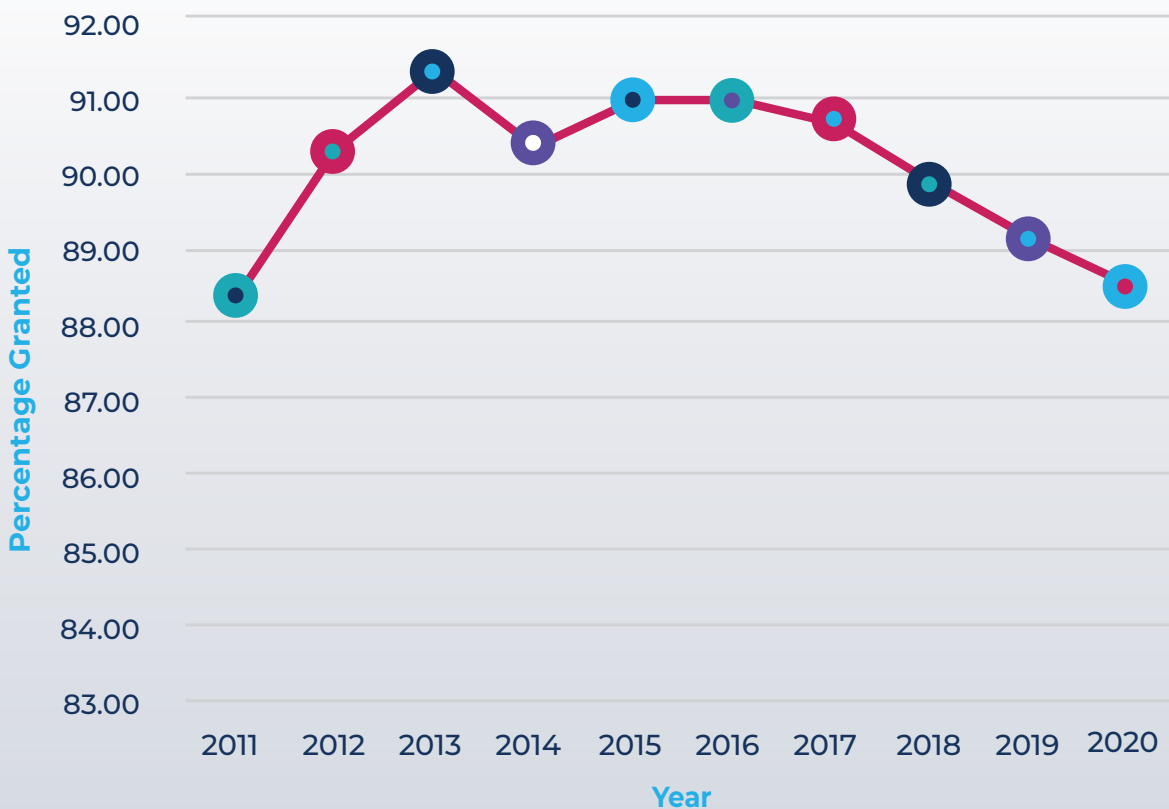
<sup>26</sup> Where the deviation of the local authority's invalidation rate from the mean rate is greater than the standard deviation of all local authorities.



## → 8.3 Planning Permissions Granted

The data in Figure 5 shows a slight decline (-0.6%) in approval rates between 2019 and 2020, continued a declining trend since 2016. The actual rate of decline since 2016 is relatively minor, at 2.4%.

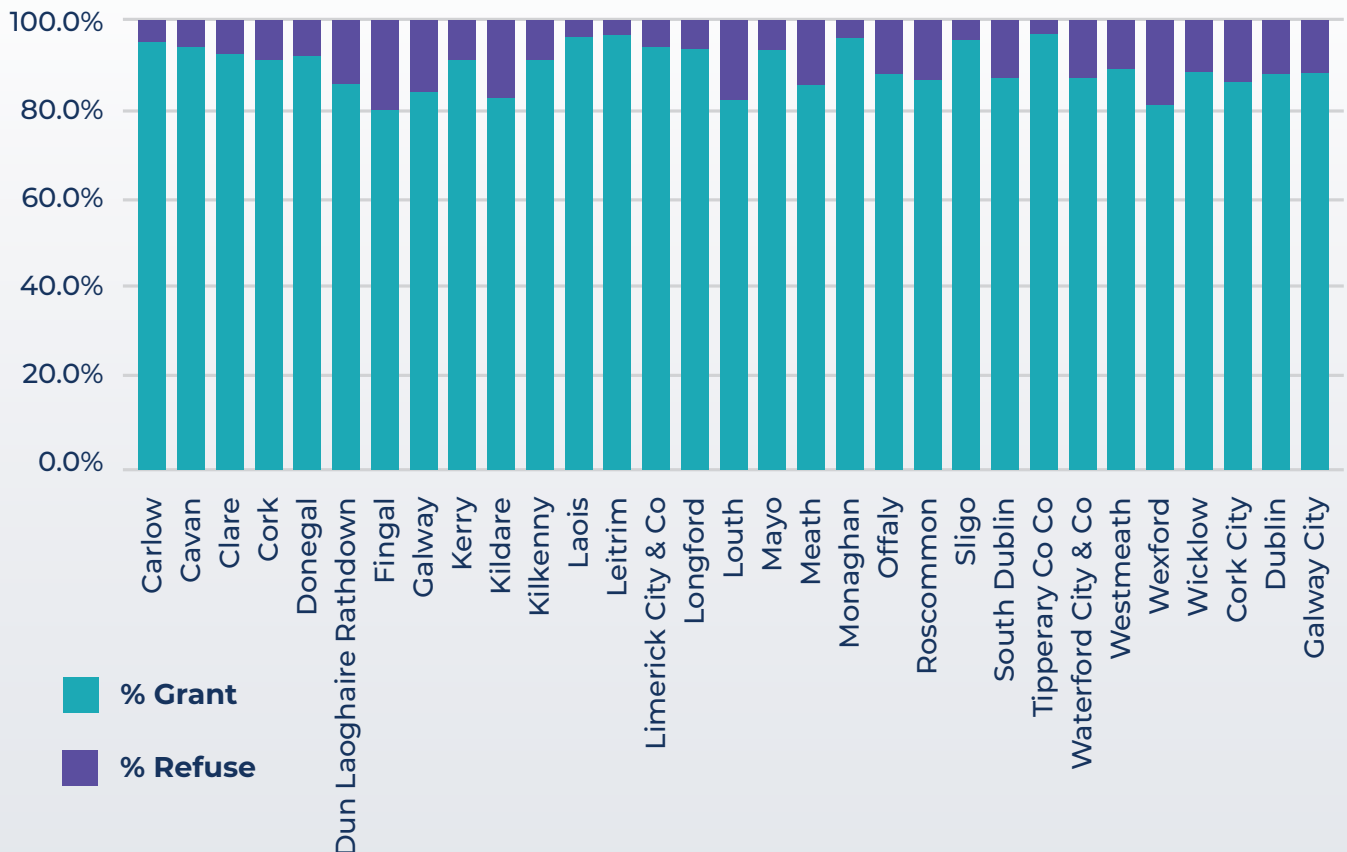
In overall national terms almost 89% of planning applications were granted, which is well within the longer term range evident.



**Figure 5:** Planning application grant rates 2011-2020 (DHLGH, 2021)

Figure 6 shows the grant / refusal rates by local authority and indicates that planning application grant rates in 2020 across all the 31 local authorities were high. The rate at which permissions

were granted ranged from 79.9% (Fingal) to close to 96.9% (Tipperary). This demonstrates a significantly lower variation than seen in the validation process.

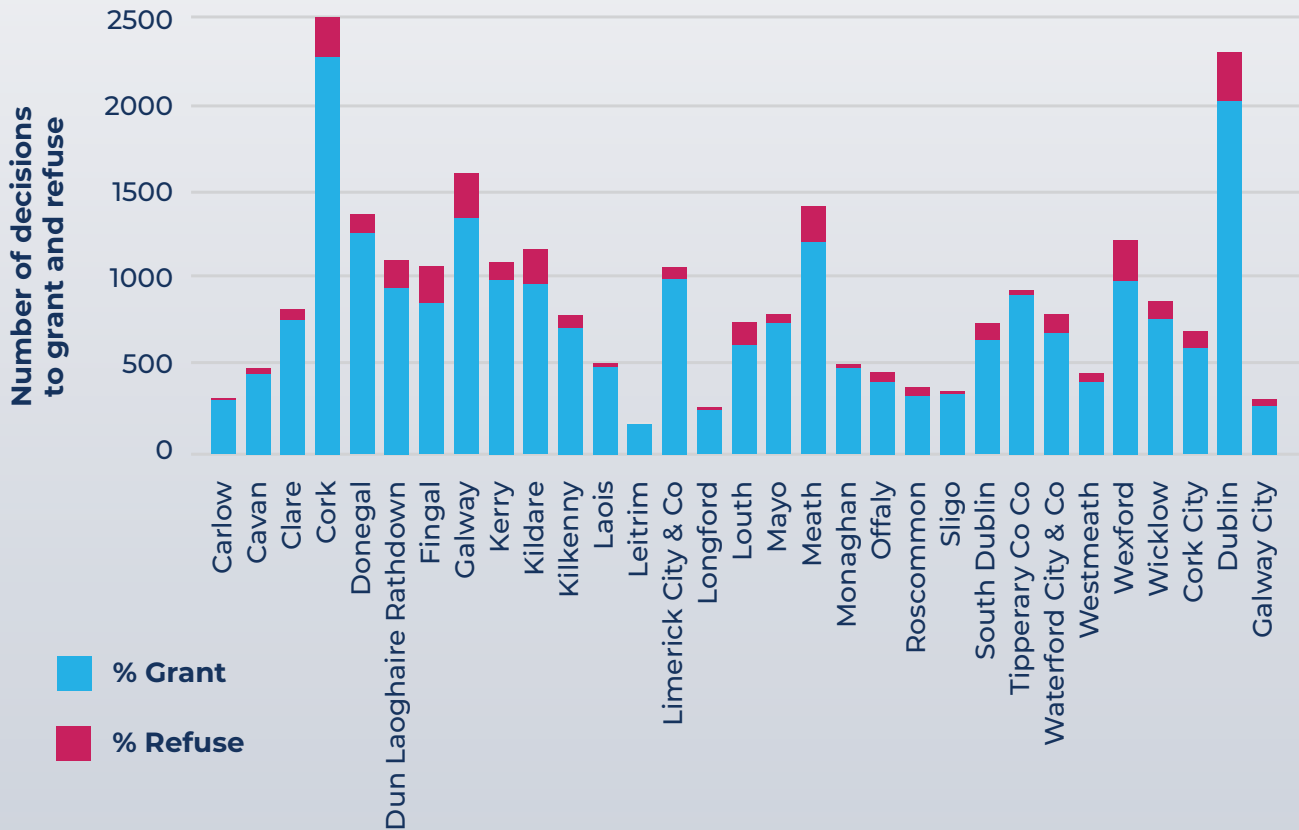


**Figure 6:** Percentage of decisions to grant and refuse by local authority, 2020 (DHLGH, 2021)

In general, the cities or larger urban areas, appear to have marginally lower approval rates than rural authorities, which may take account of the higher level of complexity of applications in urban areas.

However, while all approval rates are quite high, there are significant differences between the grant rates of some rural counties, for example Donegal (79.9%) and Wexford (81.2%) compared to Tipperary (96.9%) and Leitrim (96.6%).

This should also be seen within the context of absolute numbers of approvals and refusals, as detailed in Figure 7. While there would appear to be no obvious correlation between the total number of applications considered by a local authority and its rate of approval/refusal, a longer term review would be informative in this regard.



**Figure 7:** Number of decisions to grant and refuse permission by planning authority, 2020 (DHLGH, 2021)

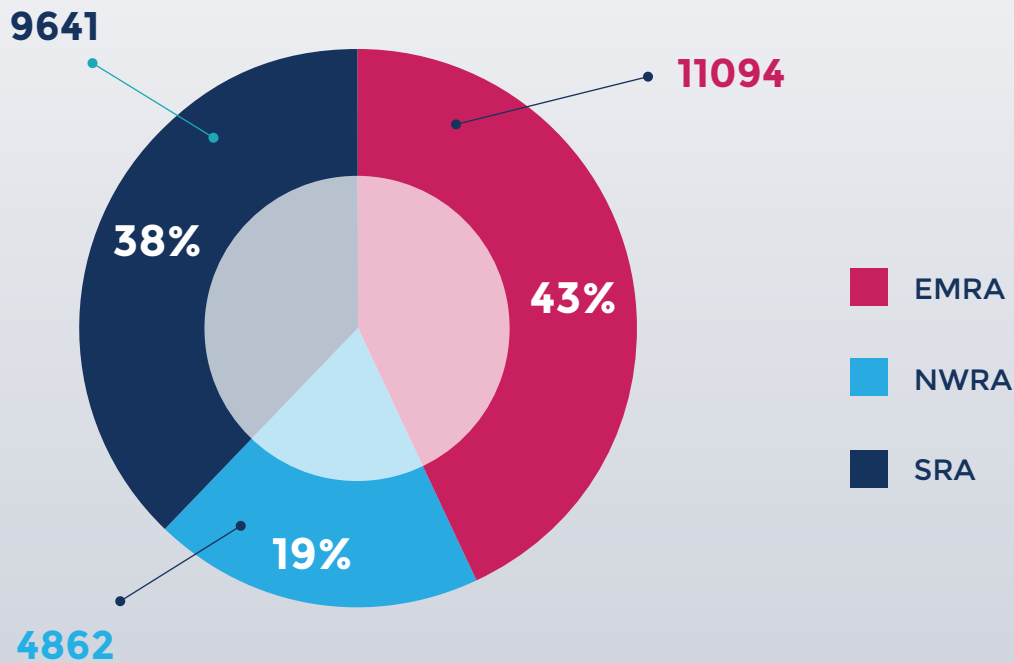
## 8.4 Applications Granted: Regional Distribution

In terms of development demand (numbers of planning applications approved), the numbers reflect concentrations of population, as evident in Figure 7. It can be seen from Figure 8 that in 2020 the greatest number of approvals were within the EMRA, driven by Dublin, accounting for approximately 43% of all applications. The SRA, with three cities (Cork, Limerick and Waterford) accounted for approximately 38% of all applications.

The NWRA, including Galway City, Sligo and Letterkenny regional growth centres accounted for approximately 19% of applications.

Although the actual number of decisions to grant permission was down nationally in 2020 from 2019 (25,597 compared to 27,921), the NWRA held its proportion of approvals at 19% and there was a slight increase in percentage share for the SRA (of <1%). There was, however, a slight decrease (-1.2%) in the percentage share of EMRA.





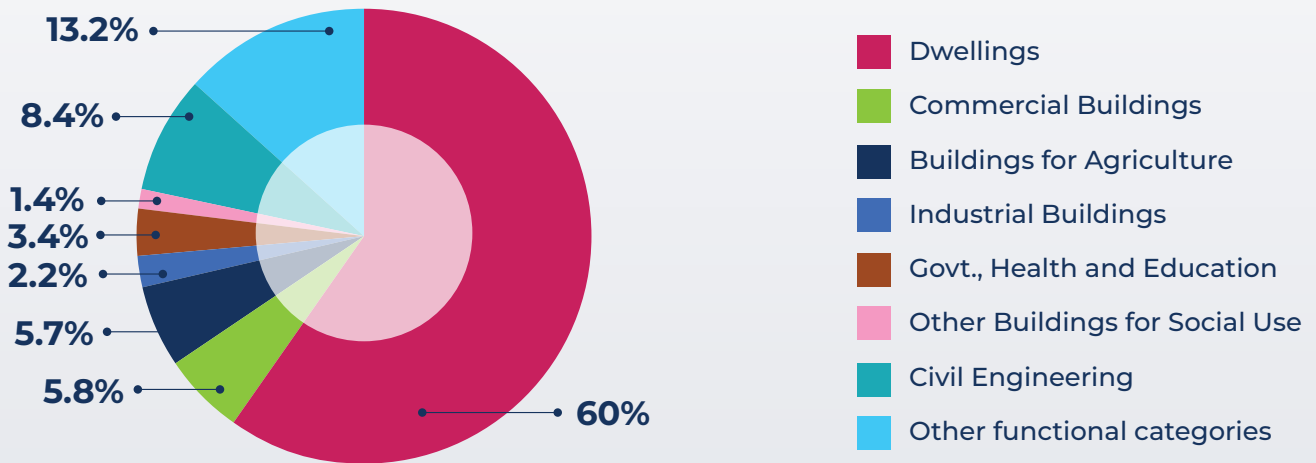
**Figure 8:** Planning applications granted by Regional Assembly area 2020 (CSO, 2020)

However, the proportion of decisions to grant permission between the regional assemblies continues to be generally consistent with proportion of population within each region (EMRA 2.3 million or 48%; SRA 1.6 million or 34%, and NWRA 0.85 million or 18%).

As can be seen from Figure 9, residential development (categorized as dwellings by the CSO) constitutes by far the largest share of applications granted permission, at 60% (15,356 grants). Apart from the catch all 'other function categories' which account for in excess of 13% of grants (c.3,367), the next highest discrete categories of grants relate to civil engineering (8.4%, c.2,149), commercial buildings (5.8%, c.1,473) and agriculture (5.7%, c.1,467).

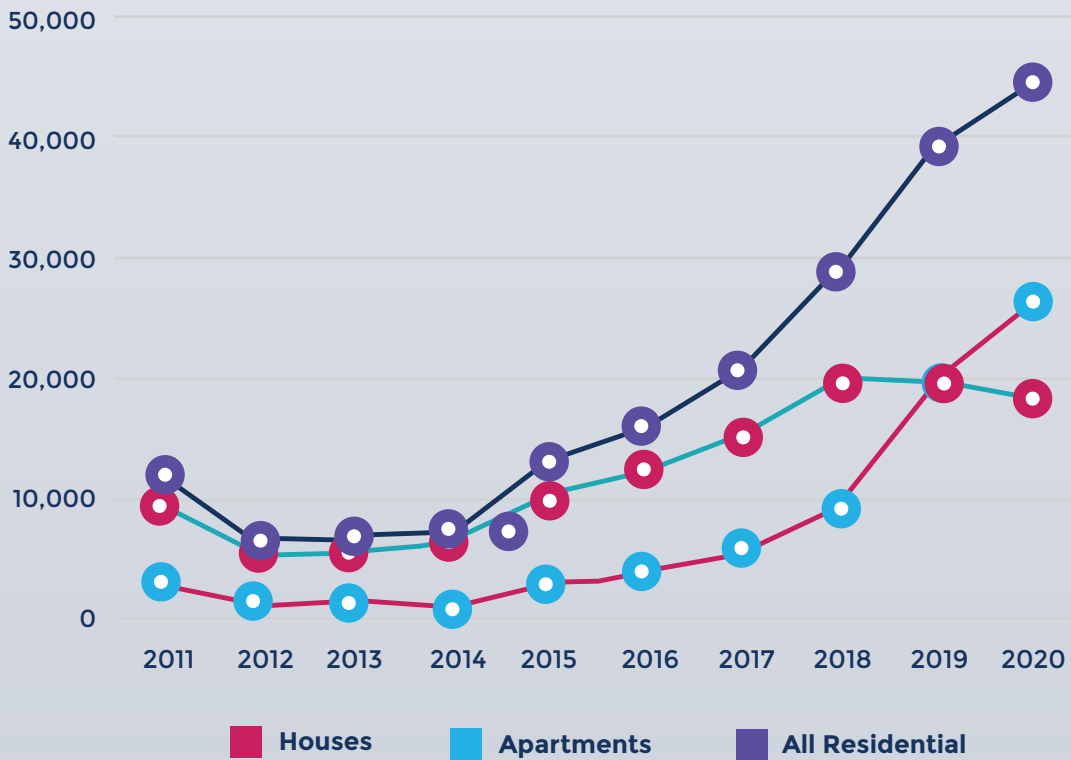
## → 8.5 Applications Granted: Use-type

Applications for permission are made for all types of development, however for statistical gathering purposes the CSO categorises them into a limited number of development or use types.



**Figure 9:** Planning applications granted permission by development type 2020 (CSO, 2021)

Not only is residential the most productive sector (in terms of applications and permissions granted), as was discussed in last year’s report, it has also grown more rapidly than any of the other use-type categories. Given the importance of the residential sector to wider society and the economy, planning applications for residential development is discussed in detail in the following sections.



**Figure 10:** Residential Permissions 2011-2020 (CSO, 2021)

## → 8.6 Residential Development

### 8.6.1 Housing unit type mix

Demand for residential development and the nature of residential units proposed are key indicators of the health of the economy, albeit with a time lag due to the time taken to prepare an application and for it to progress through the planning system. This can be clearly seen in the demand for housing over the last 10 years, as detailed in Figure 10, as the economy went through recession and recovery following the so-called Celtic tiger years.

In 2020, a total of 44,538 residential units received planning permission, an increase of 13.5% over the 2019. Notwithstanding the significant impact of the Covid pandemic on the operation of the planning decision making system,

the graph is evidence that the planning system has continued to prioritise the work of planning ahead for and enabling the provision of housing in support of government policy.

This is also reflected in the number and type of residential units proposed in planning applications and, ultimately, the number and type of units approved by the planning system. As was noted in last year's Annual Report, the number of houses and apartments permitted over the 10 years to 2019 followed a similar trajectory during the years of the economic recession.

As the economy recovered, the number of houses permitted recovered at a faster rate than that for apartment units, however in 2019 there was a significant upturn in the numbers of apartments permitted (c.125% increase on 2018), almost reaching parity with house units<sup>27</sup>.



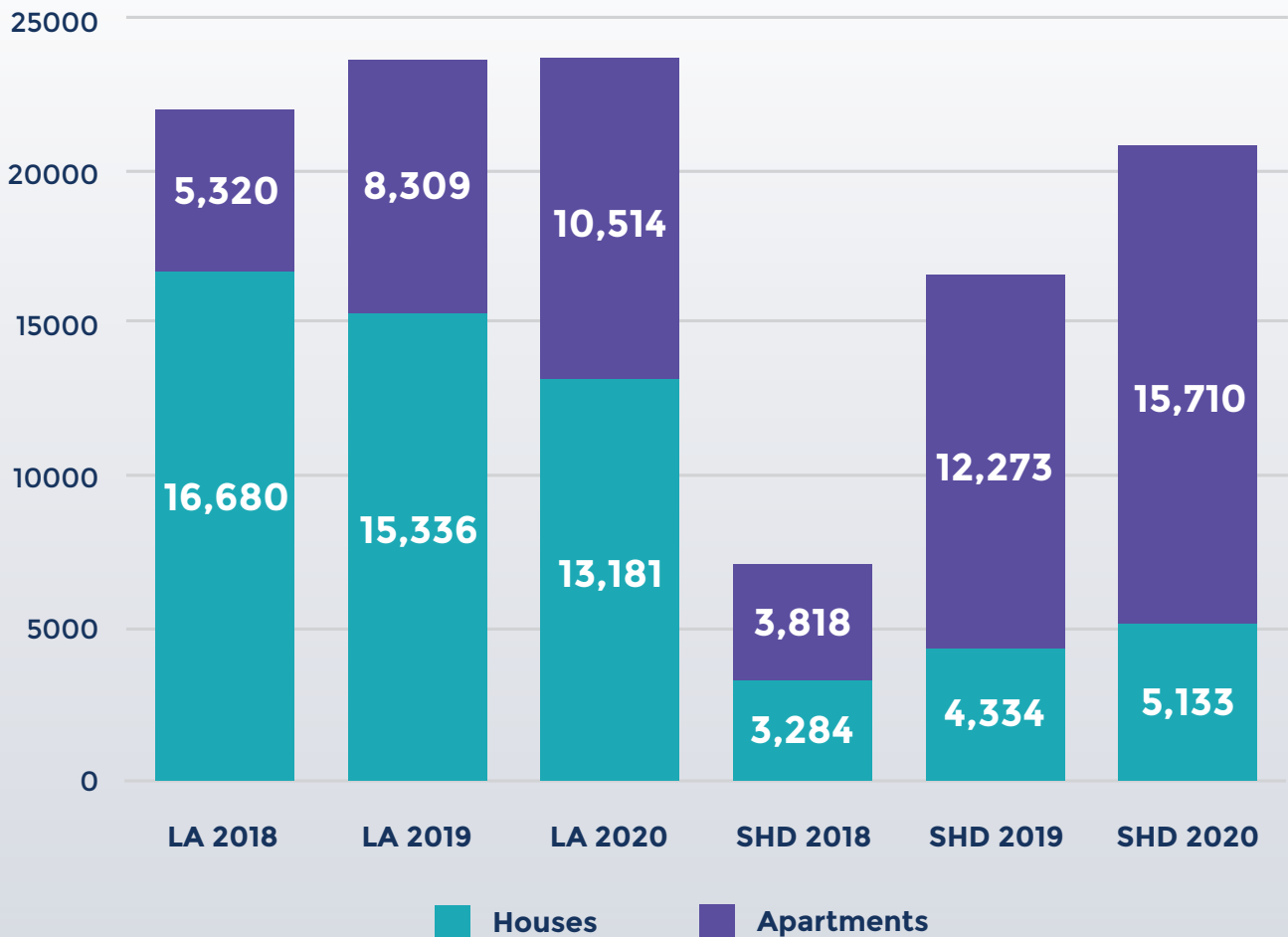
<sup>27</sup> Last year's report indicated that the number of apartments permitted had exceeded those for houses in 2019, however the CSO figures were subsequently adjusted to 19,591 and 19,651, respectively.

In 2020, a greater number of apartment units (26,224, or 58.9%) were permitted than house units (18,314, or 41.1%) for the first time, continuing the 2019 trend.

This represents an increase of 33.9% for apartment units and a decrease of -6.8% for house units over 2019 and signals the continuing shift towards a wider mix of housing types and more compact forms of development in line with Government policies. The reasons for these trends were explored in last year’s annual report.

These include the introduction of section 28 guidelines and, in particular, the legislative provisions for fast track applications to the Board for larger residential development.

These are known as Strategic Housing Development (SHD) and are in lieu of standard applications for permission to the local authorities under section 34 of the Act. SHD is addressed in further detail under section 8.6.3.



**Figure 11:** Residential unit type permitted by LA and by SHD 2018-2020 (CSO, 2021)

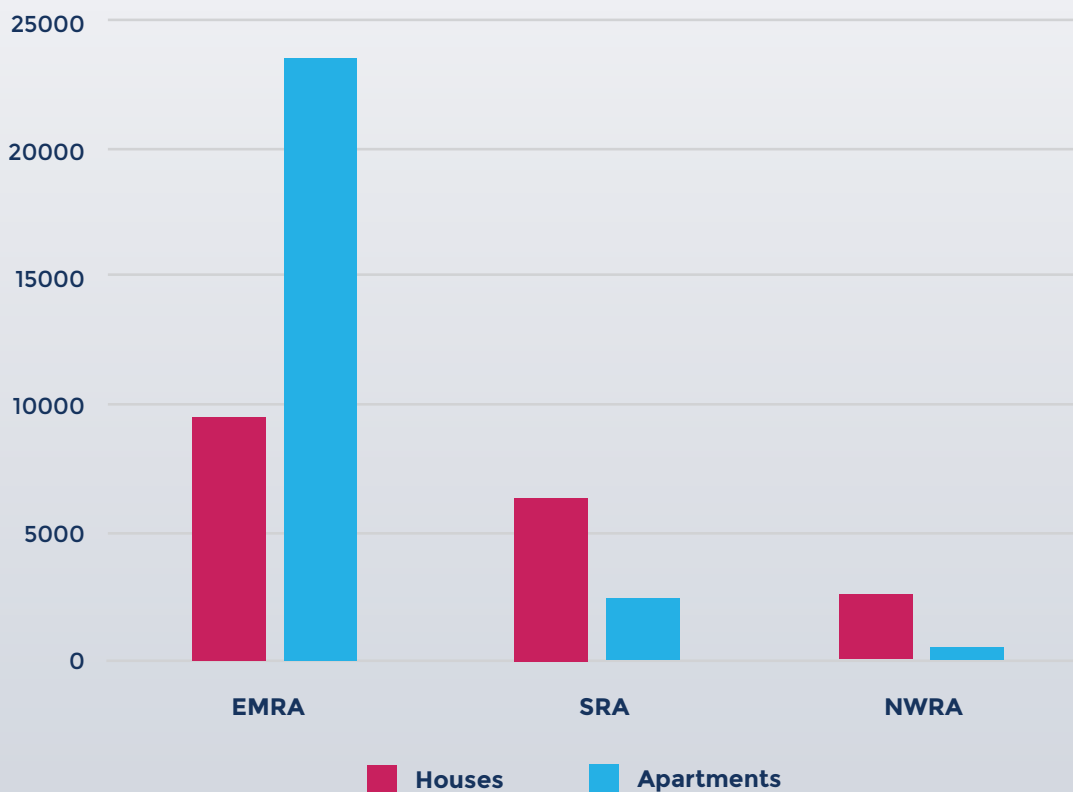
Figure 11 highlights that significant and growing role that the SHD process has played in relation to the number and type of new homes permitted through the planning system. The total number of new homes permitted through SHD has continued to rise year on year, from over 24% of units in 2018 to c.47% of units permitted in 2020, with an increase of approximately 26% in residential units permitted in 2020 compared to 2019.

It can also be seen that, similar to 2019, over 75% of units permitted under SHD comprised apartment units. However, the number of apartment units granted permission by local authorities has also increased significantly (by almost 100%) over the same period, from 5,320 units in 2018 to 10,514 in 2020, in which

year apartment units accounted for almost 45% of all units permitted by local authorities. In total, 40% of all apartments were permitted through the local authority route in 2020. The number of house units permitted by local authorities has declined over the same period c.21% and by 14% between 2019 and 2020.

### 8.6.2 Location of residential units

As evident from Figure 12, there is a notable difference between the regions in terms of the number of residential units permitted. Not only has the EMRA area continued to dominate in 2020 it significantly increased its share of residential units permitted, rising to 74% (32,867 units) of all units, up from 64% (25,673 units) in 2019.



**Figure 12:** Houses and apartments permitted by regional assembly 2020 (CSO, 2021)

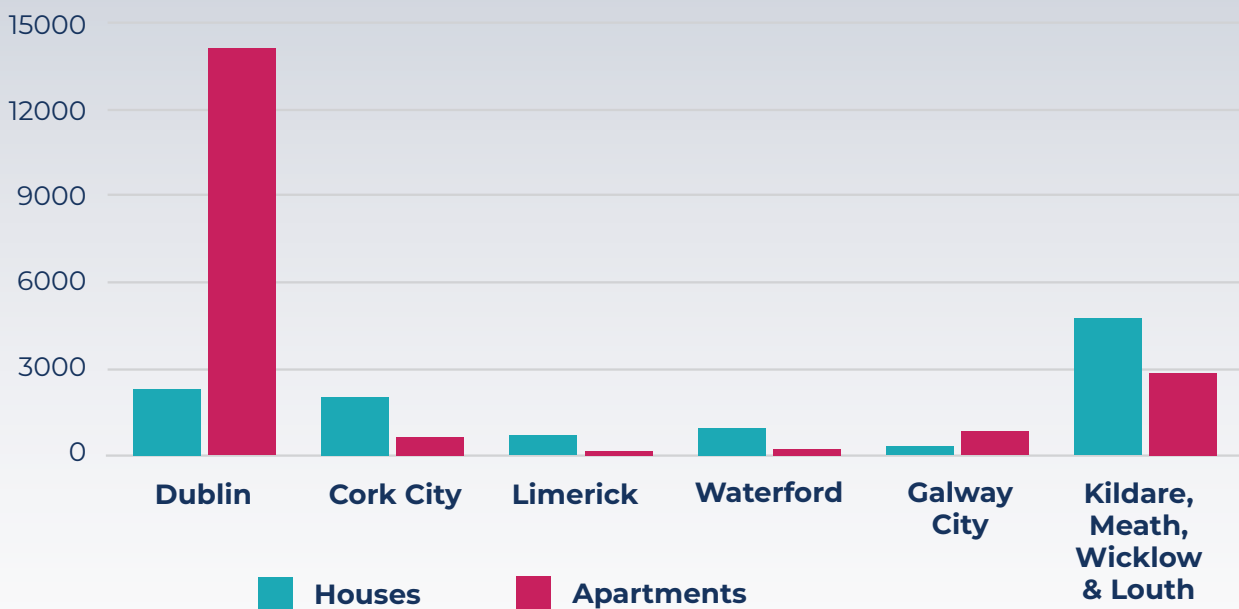
Further analysis of the units permitted illustrate that 89% of all apartment units permitted in 2020 were permitted in the EMRA region. Dublin and the mid-east region continues to demonstrate strong demand for residential permissions in 2020.

Approximately 29% (9,612 units) of residential units permitted within the EMRA area were located within the surrounding counties of Kildare, Louth, Meath and Wicklow (mid-east region<sup>28</sup>). Again, this is almost unchanged from 2019 (30%).

As evident from Figure 13, the EMRA region is further concentrated and broken down as follows:

- Almost 64% (21,079 units) of all residential units (33,399) permitted in the EMRA area were located in within the four Dublin local authorities (Dublin region). This quantum of residential units, in percentage terms, is unchanged from 2019;

This suggests that the basis for achieving more compact and sustainable patterns of urban development is there if, in particular, the many permissions for higher density development within our cities and towns and public transport corridors are activated.



**Figure 13:** Houses and apartments permitted by city region and Eastern Region (CSO, 2021)

<sup>28</sup> CSO definition

Of all the residential units permitted in Ireland in 2020 (44,538 units):

- Almost 69% (30,691 units) were located in the combined Dublin and mid-east region in 2020, which is up from 60% in 2019;
- 47% (21,079 units) were located in the four Dublin authorities.

As can be seen in Figure 13, the high proportion of apartments permitted in the EMRA area is a striking feature with housing permitted within the region, constituting almost 71% (23,399 units) of all units. This contrasts with the SRA area at approximately 27% (up from 23% from 2019) and the NWRA area at approximately 17% (down from 26% from 2019). It can reasonably be assumed that this results from the more highly urbanised nature of the EMRA area and the presence of more urban settlements of size than in the other regional assembly areas.

The distribution of apartment units within the EMRA area in 2020, mirrored that of residential units generally and was concentrated within the four Dublin authorities, with approximately 83% (19,362 units) of permitted apartments located within in the Dublin region, a slight decline from 86% in 2019. The four authorities accounted for almost 74% (see figure 13) of all apartments permitted nationally, an increase on 69% in 2019. The corresponding proportions for houses was 18% and 9.4% respectively

The mid-east region accounted for 15% of apartments granted permission in the region, down from 16.7% in 2019. The number of apartments permitted in 2020 in the mid-east region accounts for just over 13% of the national figure. Together, the combined Dublin and mid-east region accounted for more than 87%, up on the 2019 level of 82%, of all apartment units permitted in Ireland in 2020. This suggests that residential permissions are becoming increasingly concentrated, in terms of the total numbers of units and higher density unit-types, within Dublin and its commuter belt.

Comparisons between the Dublin area and Cork, Limerick, Galway and Waterford are difficult given their sizes and differing administrative boundaries arrangements. However, it is apparent from Figure 13 that the ratio of apartment development to houses is much lower in each of the provincial cities, compared to Dublin, except for Galway City. Almost 73% (same as 2019 rate) of all residential units approved in Galway City were apartment units. This compares to almost 50% for Cork City, 31.7% for Limerick and 29% for Waterford.

### **8.6.3 Strategic Housing Development**

Section 8.6.1, above, reviewed the numbers and type of residential units permitted through section 34 applications and through Strategic Housing Development (SHD) applications for the years 2018, 2019 and 2020. The following section considers the overall output of SHD applications in 2020 in more detail, including shared accommodation units and student bed spaces.

It also includes an analysis of SHD pre-application requests in 2020, as indicative of future demand for such development. Finally in 2020 the Minister issued Section 28 guidance which stood down any new applications for shared accommodation units.

Strategic Housing Development Applications for Strategic Housing Development (SHD), comprising proposals of 100 or more houses, 200 or more bed spaces for student accommodation or 200 or more bed spaces for shared accommodation units, are required to be made directly to the Board. The statutory provisions became operative in July 2017, with the first applications received in 2018. These provisions will cease in 2021 and as yet the detail of any new procedures or mechanisms has yet to be confirmed.

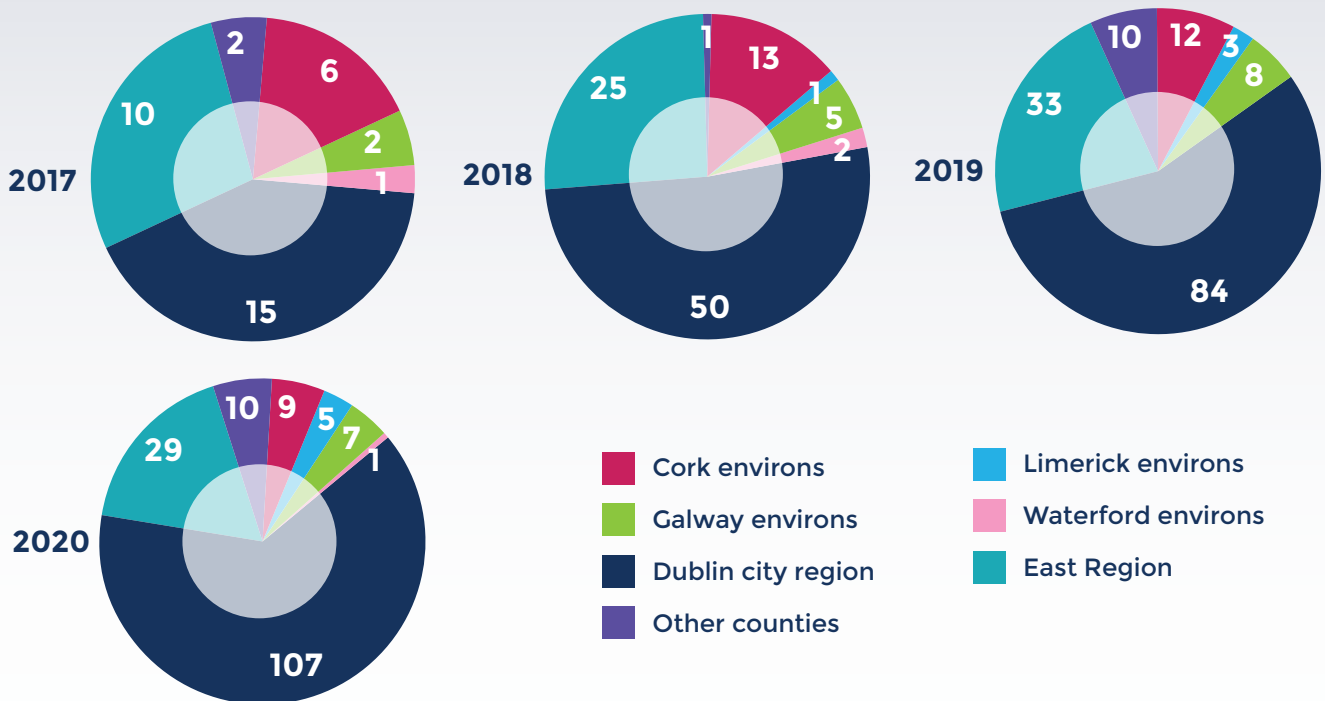
The Board received 110 valid SHD applications during 2020, slightly down from 2019 when 119 SHD applications were lodged to the Board. A total of 126 SHD applications were formally decided during 2020 (compared to 82 decided in 2019). Of the 126 decided applications, 98 were granted planning permission and 28 applications were refused permission. The following overall number of units were permitted from the SHD applications granted permission in 2020:

- 5,133 houses
- 15,710 apartments
- 574 shared accommodation units
- 2,301 student bed spaces.

Overall, 168 SHD pre-planning applications were lodged with the Board. Figure 14 compares a geographical breakdown of the SHD pre-planning applications. It is evident that the number of pre-planning requests in the Dublin city region has continuously increased year on year and as a percentage of the overall applications received increasing from 42% in 2017 to 64% in 2020.

The 2020 intake of pre-application requests is a useful indicator of future SHD planning applications and potential development trends. Apart from the Dublin city region, the other notable geographical area of high demand for SHD is the east region (i.e. the Dublin commuter belt counties of Wicklow, Kildare, Meath and Louth), for which 18% of all requests were made. Taken together, Dublin city region and the east region accounted for over 80% of the all SHD pre-applications to the Board in 2020.



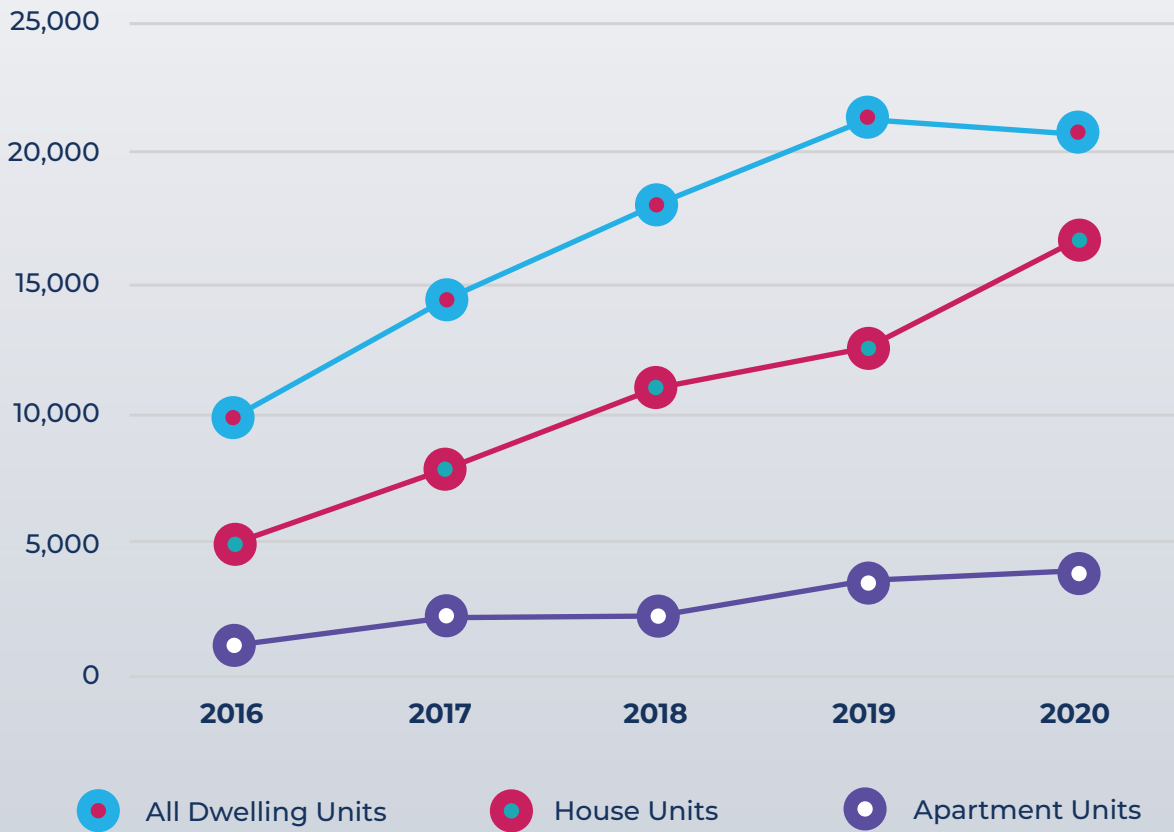


**Figure 14:** SHD pre-application consultation requests lodged per annum 2017-2020 (ABP, 2021)

Outside of the Dublin region the numbers of SHD pre-planning consultation requests continue at very low figures, but suggest a mixed outlook for SHD demand in the city regions. Cork environs experienced a not insignificant decline in numbers and percentage share (down from 8% to 5% share) since 2019, the figures for Galway environs declined slightly (4%), whereas Limerick environs (3%) increased slightly and Waterford environs (0.6%) have declined over the same period. The level of interest in SHD outside the city regions and east region has remained static (in absolute numbers) although its percentage share dropped slightly to 6% of consultation requests.

#### 8.6.4 Residential Completions

Maintaining and enhancing a stock of implementable planning permissions supports wider housing delivery. Figure 15 shows that in the four years up to and including 2019, the construction sector has consistently expanded to increase the rate of construction, rising from almost 10,000 to over 21,000.



**Figure 15:** Total dwellings, houses and apartments completed per annum, 2016 – 2020 (CSO, 2021)

However in 2020 the total number of new dwelling completions declined by 2.7% to 20,676 from the 21,087. Although the overall level of decline is relatively minor in absolute terms, it is highly significant when seen in the context of the momentum that had been building up with the construction sector over the previous years. Between 2015 and 2019 completions increased annually, on average, by more than 31% (18%-45%), or c.3,500 units year on year. It is therefore apparent that the Covid pandemic has adversely impacted on the delivery of housing in 2020.

A closer review of the residential completions from the CSO monthly breakdown of new dwelling completions in 2020 against 2019 illustrates the impact of Covid on completions in April (only 396 completions - a 72.8% drop from April 2019) and May. Subsequent months' completions have risen closer to those for 2019 figures, with completions in November and December exceeding the 2019 figures (31.3% and 18.9% increases respectively).

The number of apartments completed in 2020 increased by 14.5% to 4,010, from 3,507 in 2019. This contrasts with the completion of individual housing and scheme residential developments, which declined by 2.6% and 6.3%. Some emerging trends, in the geographical distribution and in the average size of residential unit completed in 2020, are also worth noting:

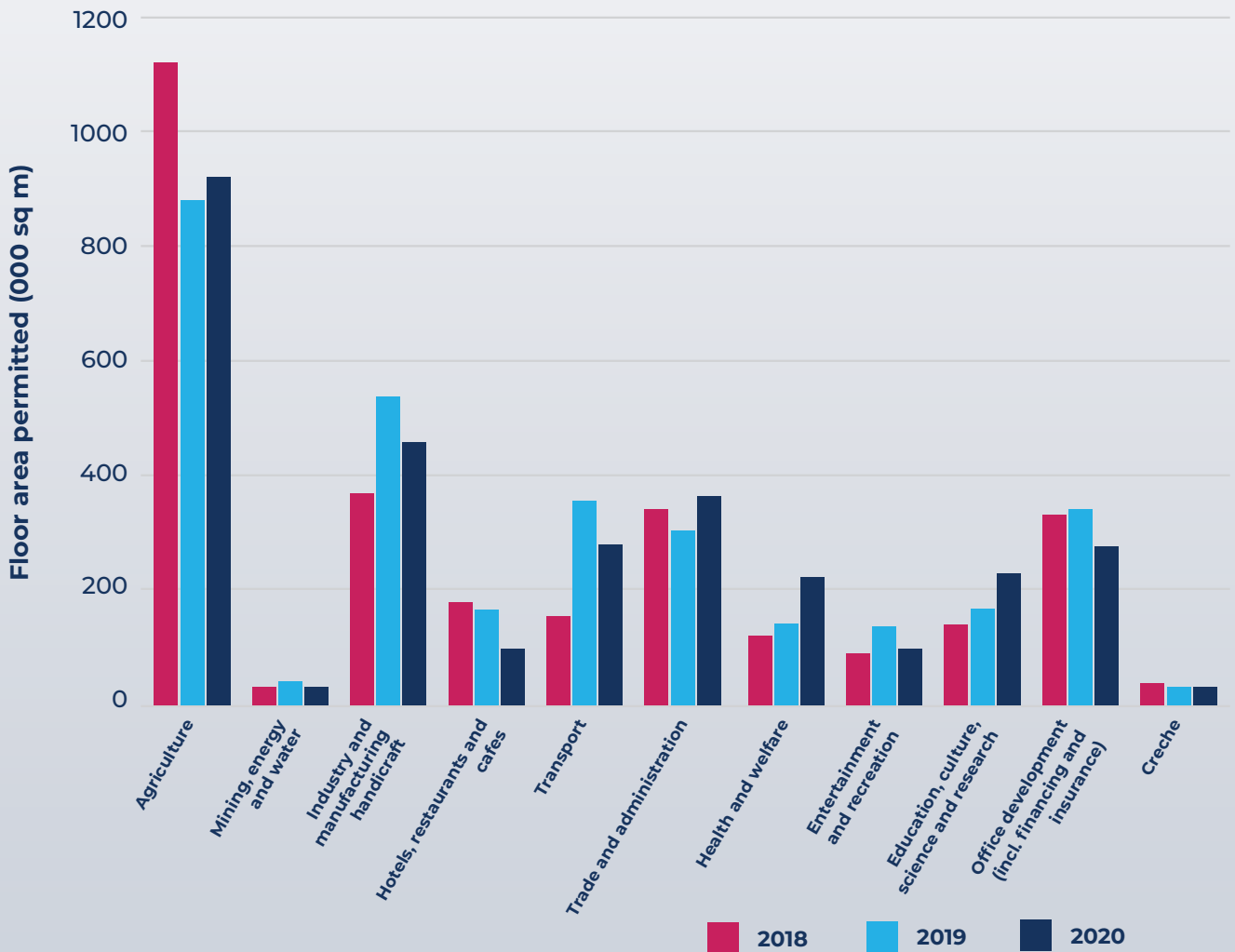
- The Eircode area with the most new dwelling completions was W91 'Naas' (871 completions). The rest of the top 10 are all in the Dublin suburbs and commuter belt except H91 'Galway' (729), T12 'Cork Southside' (489) and V94 'Limerick' (485) comprise of the remaining top 10 Eircode Routing Key areas in 2020. The top 10 Eircode Routing Key areas account for 30% of all new dwelling completions in 2020.
- The average size of the dwellings completed continues to fall year on year, to 82.-sq. m. in 2020, down 3.8% from 2019. This trend is consistent with the growing number of apartment completions relative to scheme residential developments and a move towards potentially more compact growth patterns of development if the relevant permissions are activated.
- The completion of detached dwellings within scheme dwellings has declined from 21% in 2014 to 11% in 2020.

## 8.7 Non-Residential Development

As illustrated in Figure 9, planning applications approved in respect of non-residential development constitute a significant proportion of all planning approvals. This is also confirmed in Figure 16, which sets out the total floor area of approved developments by use type.

Agricultural-related approvals comprise the largest category of non-residential development by floor area and have grown markedly in recent years. By nature, agricultural buildings tend to be large, hence the significant floor area, which accounted for almost 923,000 sq. in 2020, up by 40,000 sq. metres from 2019. This trend is indicative of a growing and modernising agricultural sector and is potentially due, in part, to ongoing enhancement of waste-management and animal housing facilities in response to environmental protection regulatory requirements.

The total area of industrial and manufacturing floor space approved (460,000 sq m) fell in 2020 by 17% (80,000-sq.m) from the previous year, but is 24% higher than that of 2018. The figure also remains far above that of the middle of the decade, which last year's annual report noted only reached 78,000-sq.m in 2014.



**Figure 16:** Total floor area permitted by use type (non-residential) (CSO, 2021)

Likewise, the growth in the trade sector<sup>29</sup> remained reasonably robust in 2020, increasing by c.16% over 2019. In contrast the total quantity of office floor space granted permission dropped by 18.7% in 2020.

It remains to be seen, however, whether the permitted floor space in these areas will be actualised in view of the changed retail and working environment patterns that have emerged during the Covid pandemic, the long term impacts of which are yet to emerge.

<sup>29</sup> Defined by the CSO as including 'Trade and administration buildings for other economic activities'.

### 8.7.1 Renewable energy sector

As noted in last year's annual report, the renewable energy sector has become a major area of work for the planning system and this report aims to keep abreast of significant developments in this area on an annual basis.

The data indicates that enabling activation of substantial levels of alternative climate-friendly electricity sources is a major priority for Ireland's planning system at national and local levels. Although renewable energy covers a wide range of project types, the most prominent and highest producing sector is that of wind energy. Useful annual statistics are available from Wind Energy Ireland and from the Board's decisions on Strategic Infrastructure Development or SID (see following section for details) and on planning appeals.

Wind Energy Ireland report that the capacity for wind energy in the state continued to expand during 2020, increasing to over 300 operational wind farms (a rise of approximately 20%) and an installed capacity of 4,235MW (an increase of c.14.5%)<sup>30</sup>. This has been facilitated to a large extent by the SID provisions.

Applications for large-scale wind farms (more than 25 turbines or having a total output greater than 50 megawatts) are made directly to the Board. In addition, many applications for subthreshold wind farm development are appealed to the Board. The Board's data provides some indication of activity in this area.

In 2020 only one wind energy development was approved through the SID process. This was the proposed development of 24 wind turbines at Derryadd, Co. Longford. The power capacity of the wind farm was not stated but would be within the range of 80 to 130MW, assuming wind turbines of between of 3.5MW to 5.5MW power rating.

Determinations by the Board on mandatory SID pre-applications can also provide an indication of future wind energy projects that will come before the Board as SID projects in the near future. In 2020 six wind energy projects, with a total of up to 95 wind turbines and a combined estimated total output of 360MW, were determined to constitute SID through the Board's SID pre-application consultations procedure. Another determination of note is the conclusion of the SID pre-application consultations on the onshore element of the Arklow Bank Phase 2 offshore wind farm, which the Board determined as constituting strategic infrastructure.

<sup>30</sup> <https://windenergyireland.com/about-wind/facts-stats> (31/05/21)

In addition, the Board approved four wind energy development as standard appeals. Such appeals relate to wind energy developments below the threshold of SID. Together these four permitted developments may facilitate 16 wind turbines with a total output of up to 74.5MWs.

## 8.7.2 Strategic Infrastructure Development

Applications for public and private Strategic Infrastructure Development (SID) are made directly to the Board. These include a range of major energy infrastructure, transport infrastructure, environmental infrastructure or health infrastructure projects designated under Seventh Schedule of the Act. They also include certain electricity transmission projects, defined under section 182(1A) of the Act. A SID application may be made by a private entity, by statutory undertakers<sup>31</sup> or by local authorities on public projects. A total of 308 SID applications have been made to the Board since the statutory provisions became operative in 2007.

According to the Board's 2020 Briefing Note<sup>32</sup>, 24 SID application cases were received in 2020, a decrease of two cases on 2019. In total, 19 cases were decided, a reduction of three on the figure for 2019<sup>33</sup> (ABP Annual Report 2019).

It is mandatory to undertake pre-planning consultation with the Board on SID cases, except for local authorities. The number of requests can be taken as an indicative of the level of confidence in the economy, although as the numbers are relatively small fluctuations should not be given too much weight. In total, 50 pre-application consultation requests were received, an increase of almost 32% on 2019, and the Board's output of pre-SID consultations also increased from 39 to 41.

<sup>31</sup> A person authorised by or under an enactment or instrument to undertake specified functions including, inter alia, to carry out work or construction (section 2 of the Act).

<sup>32</sup> ABP Briefing Note: An Bord Pleanála Planning Casework Summary Review for 2020

<sup>33</sup> ABP Annual Report 2019: [http://www.pleanala.ie/publications/2020/AR2019\\_EN.pdf](http://www.pleanala.ie/publications/2020/AR2019_EN.pdf)

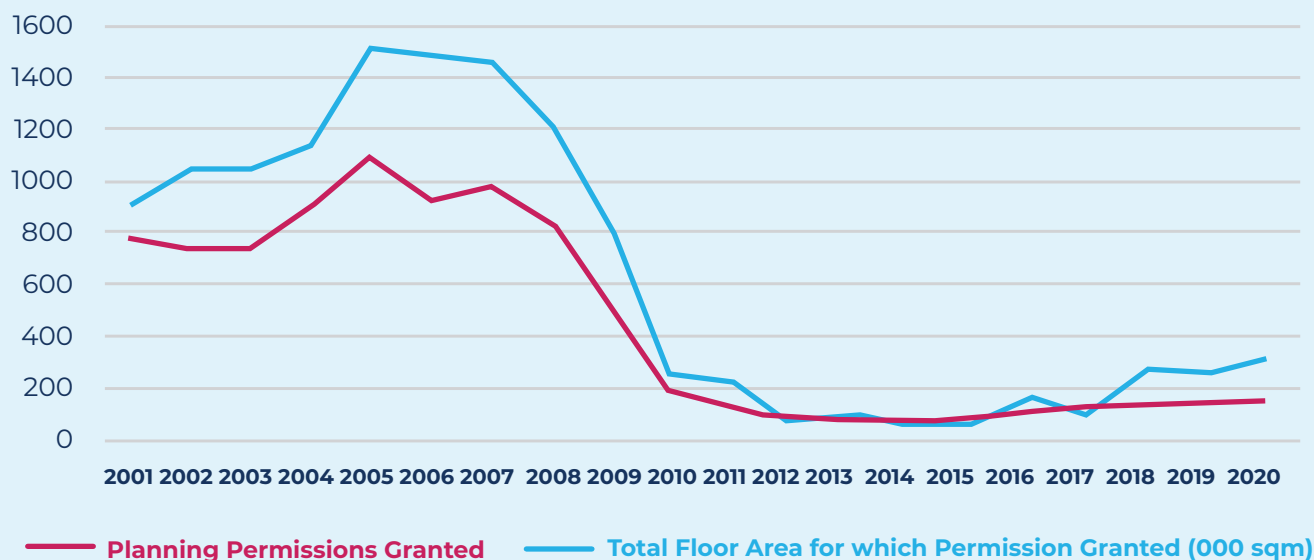
## → 8.8 Retail (The Future for Traditional Retailing in Town Centres)

The Government's NPF acknowledges the many challenges facing town and city centres. Many locations have seen trends of jobs, housing and retail moving out of central areas, increased vacancy levels and reduced vitality of town and city centres. In response, National Policy Objectives of the NPF (NPO 6, NPO 11 and NPO 16) seek to regenerate and rejuvenate cities, towns and villages, favour urban development and target the reversal of the decline in town and village cores.

The retail industry plays a vital role in the Irish economy with multiple direct and indirect benefits. When Retail Ireland completed its three-year strategy 'Shaping the Future of Irish Retail 2020', the retail industry employed over 280,000 people and amounted to 12% of Ireland's Gross Domestic Product. The strategy highlights how competition and changing consumer trends are driving a structural economic shift with evidence that the long-established correlation between Ireland's economic growth and retail sector growth is being disrupted. This is important in the context of the growth in online sales and the significant proportion of online sales completed outside of the state.

As shown in Figure 17, the number of planning permissions granted under the CSO category, *Buildings for Trade & Other Economic Activities*<sup>34</sup> averaged 870 per year between 2001 and 2008 which provided an average of 1,090,000 sq. m. of new floor space per year over the same period. In contrast, the period from 2009 to 2020 saw a dramatic fall in the number of planning permissions granted to an average of 120 per year and an average of 170,000 sq. m. of new floor space per year.

<sup>34</sup> This CSO category encapsulates applications for various forms of retail development.



**Figure 17:** Long term trends in planning permissions for buildings for trade and other economic activities (includes retail).

The onset of the Covid pandemic has compounded some challenges faced by some sectors of the retail industry pre-Covid and benefited others. For example, supermarkets and convenience stores benefited from a 12.2% increase in retail sales volume between December 2019 and December 2020. This contrasts with a 19.6% fall in retail sales volume for department stores and a 23.9% fall for fashion, footwear and textiles over the same period.

It is evident that many retailers selling items like clothes and footwear are struggling as the pandemic has accelerated the trend of online spending and challenged the viability of ‘bricks and mortar’ retailing.

Online spending from credit and debit cards amounted to €2.5 billion in December 2020, which is a 21% year on year increase when compared to December 2019.

The need for social distancing, cocooning, remote working and the forced closure of non-essential retail has had a dramatic impact on footfall in our urban centres and consequently their overall vitality and viability. Data from Google shows that footfall in our towns and cities between April and November 2020 was down by 80% at the start of the first lockdown and was significantly lower than the EU average over the same period.<sup>35</sup>

<sup>35</sup> Retail Ireland Retail Monitor - Key retail, economic and consumer trends February 2021



The Retail Planning Guidelines for Planning Authorities (April 2012) (RPGs), prepared after a period of very significant retail growth nationally, established the key principles of a plan led and sequential approach to planning for retail development in order to protect the vitality and viability of our city and town centres.

Although the RPGs acknowledged online retailing as a trend, its potential to significantly disrupt the retail market has grown markedly, signalling a merit in updating methodologies outlined in the guidelines such as forecasting any future demand for retail floor space in development plan retail strategies.

The question of what uses the growing levels of vacant buildings in many town and city centre areas can be repurposed for is uppermost in many communities and their local authorities. Figures for commercial vacancy were already above 20% for many prominent towns such as Ballina and Sligo Town in Q2 2019 prior to the pandemic.

Work by the Heritage Council on its Collaborative Town Centre Health Check Programme (June 2020) highlighted that vacancy rates in town centres such as Tipperary and Dundalk, were very high even before the pandemic and pointed to a need for heritage led regeneration and a policy shift towards putting town centres first.<sup>36</sup>

It is possible that changes in retailing patterns will reduce demand for car parking spaces but open up new opportunities for the treatment of the public realm in town and city centres and their promotion for a wider range of living, cultural, working and community uses.

A number of local authorities have responded to the challenge and implemented initiatives to make their urban spaces more inviting and attractive through increased pedestrianisation, wider footpaths to accommodate outdoor dining and new cycling infrastructure. In September 2020, Cork City Council consulted on a proposal to permanently pedestrianise 17 of Cork city's streets to support social distancing and its vision for a city of sustainable urban growth.

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<sup>36</sup> Agreed Policy Paper on the Heritage Council and Partners' Collaborative Town Centre Health Check (CTCHC) Programme – June 2020

The Programme for Government sets out a commitment to the development of a Town Centre First policy that will implement a strategic approach to town centre regeneration. Government has committed to significant capital investment under the Urban Regeneration and Development Fund and Rural Regeneration and Development Fund to support improvements and new users in our towns and villages.

Additionally, the pandemic has brought a renewed appreciation for our outdoor spaces and what opportunities might exist to enhance or improve these. Planning processes have a pivotal role to play in addressing the challenges and opportunities affecting retail in our town and city centres in a holistic way with other key policy areas supported by tangible implementation actions with potential to secure funding under government programmes.

A photograph of a busy street in Galway, Ireland, likely Shop Street. The street is lined with multi-story buildings, some with shops on the ground floor. A sign for 'Elles Cafe' is visible on the left. The street is decorated with blue and white bunting. People are walking along the street, some carrying shopping bags. The sky is overcast. A quote is overlaid on the image in a blue box.

*“The onset of the Covid pandemic has compounded many of the challenges affecting the retail industry.”*

Shop Street, Galway



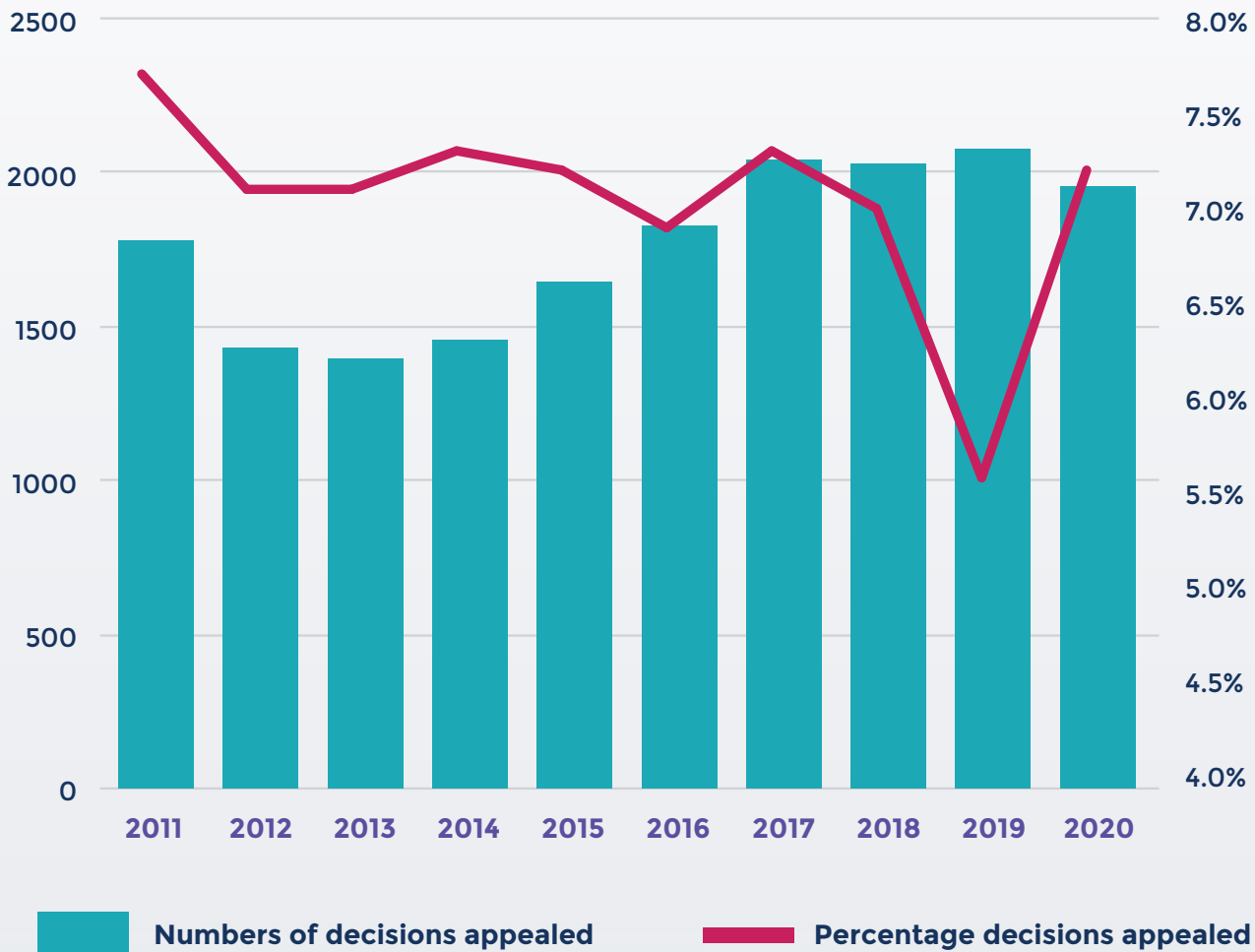
**Boyne  
Viaduct,  
Drogheda,  
Co Louth**

## 9. Planning Appeals

### → 9.1 Planning Appeals

The Board is the appellate body for planning decisions made by local authorities. It is also the authority for direct applications for certain cases deemed strategic by government, including Strategic Infrastructure Development and Strategic Housing Development. These have been addressed under development management for ease of reading and this section only considers appeals to the Board and its decisions on same.

Figure 18 illustrates the number of appeals to the Board overlaid with the percentage of all applications the subject of appeal, on an annual basis from 2011-2020. Last year's report discussed the trends evident over the 10 year period to 2019, noting in particular the increase in appeals as momentum increased in the economic recovery from the middle of the period.

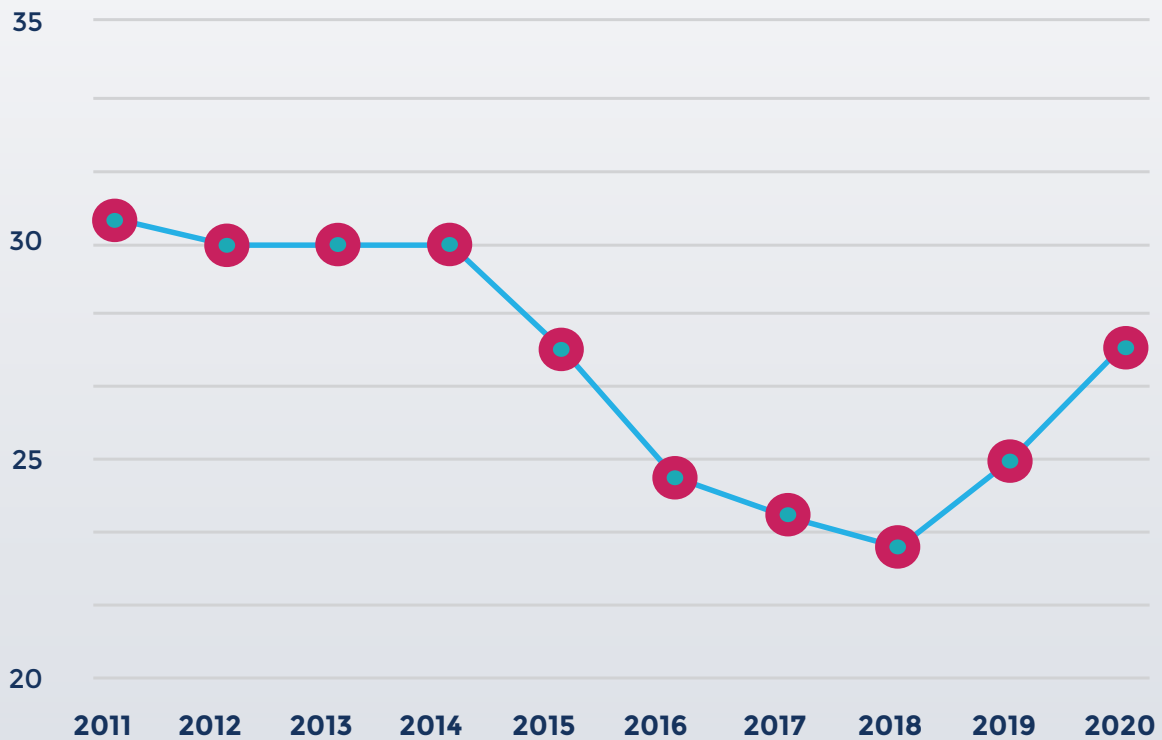


**Figure 18:** Number and percentage of all decisions appealed per annum (ABP, 2021)

The number of appeals is slightly reduced on 2019 (a drop of c.120 cases). The trend in the percentage of all decisions appealed, which dropped appreciably if not very significantly between 2018 and 2019 (down from 7% to 5.6%) returned to a rate of 7.2% in 2020. This is more consistent with annual percentage rate over the rest of the decade but will need future monitoring in case of a break with that trend.

## → 9.2 Reversal of Decision on Appeal

As noted in last year’s report, the reversal rate of local authority decisions by the Board has followed a generally declining trend over recent years until 2019 when it increased for the first time in a decade. It can be seen from Figure 19 that the moderate increasing trend has continued through 2020, reaching 27.3%. However, this figure is well within the average range for the period.



**Figure 19:** National Average Reversal Rate (%) (ABP, 2021)

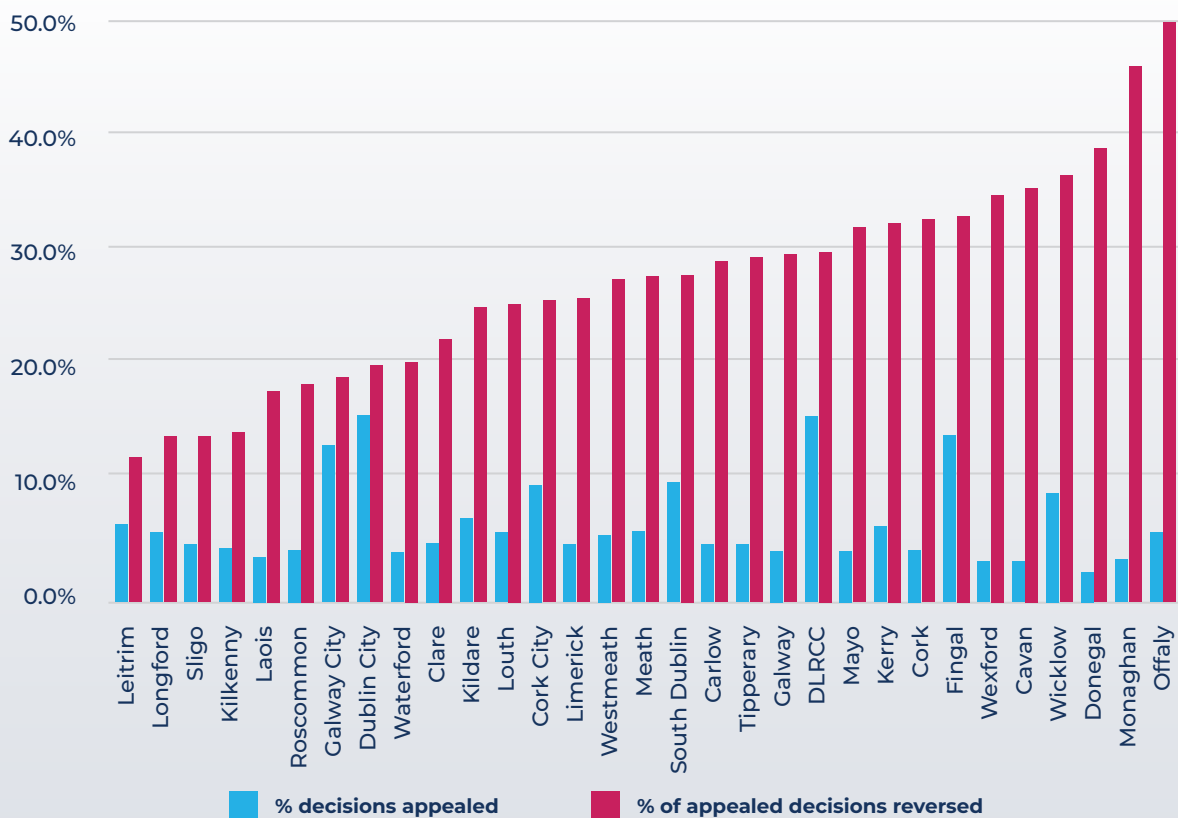
Figure 20 also provides data for 2020 on reversal rates for the 31 local authorities.

Firstly it is noted that the rate of appeal tends to be higher in the more urban local authorities, including the Dublin authorities and Cork and Galway cities, exceeding 10% of all decisions (16.1% or 369 decisions for Dublin city). For approximately half the local authorities the appeal rate was 5% or less, being as low as 2.6% in the case of Donegal (36 decisions).

Secondly, a degree of difference can be seen in the overturn rate for different local authorities. However, a very high degree of caution should be applied in interpreting these figures in any individual local authority context as the absolute numbers of appeals each year, in particular in smaller and more rural authorities may be very low. For example, only 12 planning decisions were appealed in Leitrim in 2020 (and three in 2019), compared to 336 for Dublin city.

Nevertheless, of 16 decisions by Offaly County Council determined on appeal by the Board in 2020, 8 or 50% were overturned a similar rate (46.2%) was evident for Monaghan (6 of 13). However, it is apparent that these statistics are based on very small numbers and

consequently the reversal rate may fluctuate widely especially for smaller, rural counties. The corresponding rates for Offaly and Monaghan in 2018 were 11% and 9%, and for 2019 were 25% and 15%.



**Figure 20:** Percentage of decisions appealed and reversal rate on appeal, by planning authority in 2020 (ABP, 2021)

Of more significance, perhaps, is the fact that for c.39% of local authorities (12) the overturn rate exceeded 30% of determined cases, rising to 84% (26) with a reversal rate in excess of 20%.

A detailed examination of the longer term annual reversal rates and the factors underlying the variation across

the local authorities will be considered by the OPR as a future area of research, in conjunction with the Board and the Department of Housing, Local Government and Heritage. Such research might determine factors responsible for higher overturn rates and inform solutions to provide for more robust planning decisions.



## 10. Enforcement, Land Management and Legal Challenges

### → 10.1 Planning Enforcement

NOAC, the national independent oversight body for the local government sector in Ireland publishes an annual overview of enforcement activities undertaken by the 31 local authorities. In 2019 (the latest year for which figures are available), a total of 7,065 planning enforcement cases were either referred to local authorities by the public or initiated by the authorities themselves. This was a 6.45% increase on the figure for 2018.

The number of cases resolved to the satisfaction of the local authority (6,283) increased by just over 12.64% over 2018.

The number of cases dismissed as trivial or without foundation, or which were closed because statute barred or an exempted development increased from 2,478 in 2018 to 2,789 in 2019, an increase of 12.5%. This compares to a fall of 27% from 3,401 cases in 2017.

The OPR intends to examine the area of enforcement in more depth in the medium to longer term, pending the outcome of the initial implementation of local authority reviews process.

Luas,  
Dublin



## → 10.2 Land Activation

According to data returned to the the Department of Housing, Local Government and Heritage from local authorities, as of 31 May 2020 there were 352 sites listed on local authority vacant site registers (VSR's), compared to 359 sites on 31 October 2019. These were valued at €139.9m and were liable to the levy at a rate of 3% (€4.2m) in 2019. Sites valued at €237.3m were liable to the levy at a rate of 7% (€16.6m) in 2020. The Department of Housing, Local Government and Heritage estimates that these sites have the capacity to accommodate 18,000 residential units (assuming a density of 35-50 units per hectare).

Local authorities also keep a register of derelict sites. The returns from local authorities indicate that as of 31 December 2019, 198 sites had been removed from the derelict sites register.

The OPR recognises the challenges that the VSR presents for some local authorities due to resources and skill-set constraints, particularly for those without in-house legal staff. Legal issues such as multiple ownership and probates has delayed the effectiveness of the VSR for some local authorities.

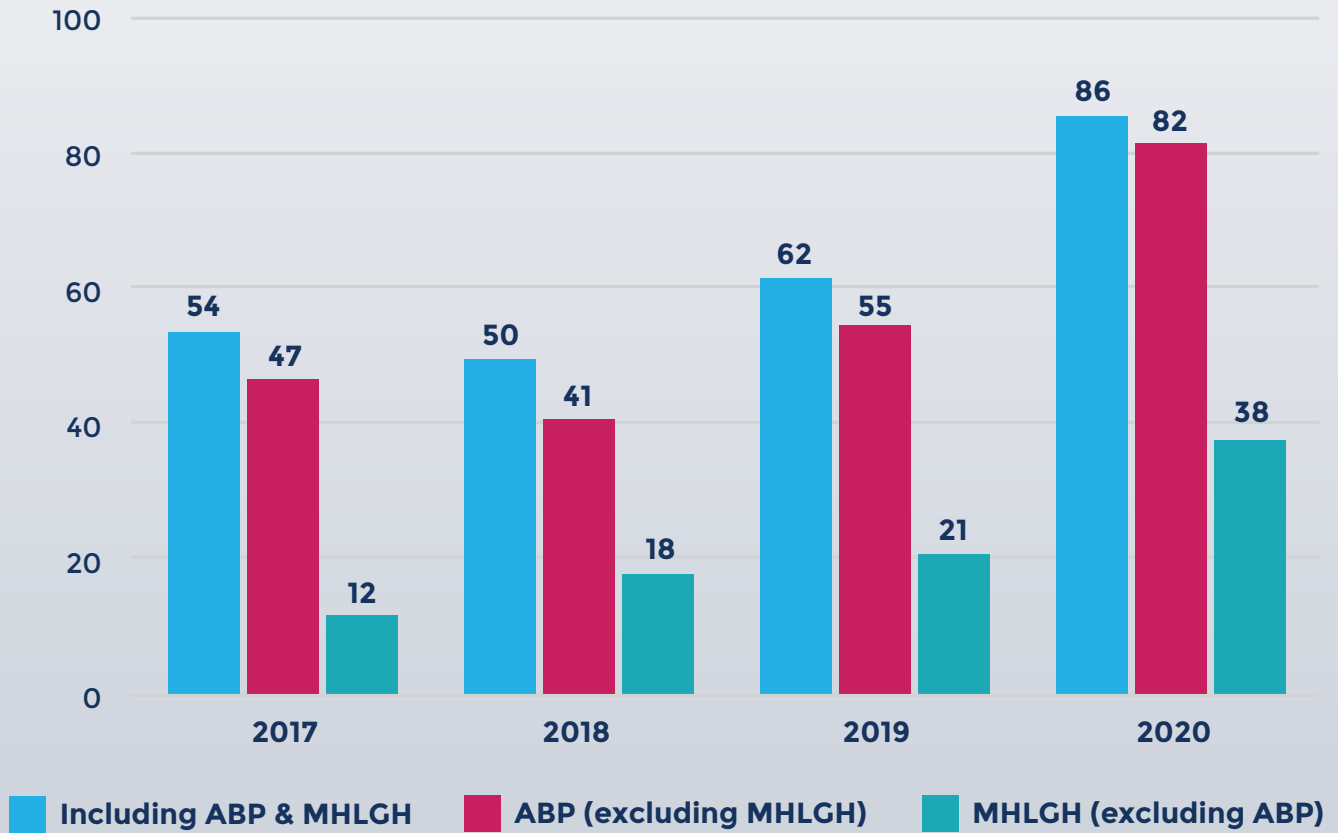
Through the OPR's reviews programme we will be seeking information from local authorities with regard to their implementation of the levy, paying particular regard to systems and procedures that have seen the levy utilised as a successful land activation measure.

## → 10.3 Legal Challenges

A judicial review (JR) is a procedural remedy concerned with the legality of the decision-making process. JRs are taken in court against a decision-maker and their decision. Therefore, in planning cases judicial reviews are more often than not taken against a local authority or the Board, as the case may be, and their planning decision. In some planning JR cases against decisions of the Board or a planning authority, The Minister for Housing, Local Government and Heritage (MHLGH) may be joined in the case where there is also a challenge to the planning legislation upon which the decision was made.

There is no single database of planning related judicial review cases relating to decisions from across the central and local government sector, including the Board albeit information on JRs is generally available to the public on the Courts Service website (courts.ie). However, the Board publishes data on legal challenges to its decisions in its Annual Report each year, and this provides a good yardstick on trends in planning JR cases.

Combining the Board's JR figures, over the past four years, with information on planning JR cases involving the MHLGH, the levels of new applications made for judicial reviews in the planning area involving the Board and/or MHLGH are set out in Figure 21.



**Figure 21:** Respondents on planning-related legal challenges (DHLGH and ABP, 2021)

Between 2017 and 2020, there has been an increase of c.74% in the number of legal challenges brought against decisions of the Board. Over the same period legal challenges to which the Minister has been joined in a planning JR case have more than tripled<sup>37</sup>.

As noted in last year’s Annual Report, the increase in legal challenges against the Board, in particular, coincides with the enactment of the Environment (Miscellaneous Provisions) Act 2011,

which introduced special legal costs rules regarding planning and environmental judicial reviews.

However it also coincides with the general increase in planning activity / planning decisions by planning authorities and the Board since the post-2008 economic downturn – only 13 JR cases against the Board were granted leave to in 2010, compared to 45 in 2008 and 82 in 2020.

<sup>37</sup> In nearly all / most of the cases involving MHLGH, the JR cases were taken against a decision of ABP or a planning authority, and the Minister was joined as a second or third respondent, not with respect to the substance of the decision, but on a related challenge to the legislation

In this regard it is also important to consider the numbers of legal challenges against the absolute number of planning decisions being made within the system. In 2020 over 27,000 planning applications were decided by planning authorities, of which around 2000 decisions were appealed to the Board.

In total, the Board made decisions on around 2025 planning cases<sup>38</sup>, including appeals and SHD and SID applications. Therefore only c.0.3% of all decided planning applications (including direct applications to the Board) were subject of legal challenge<sup>39</sup>. Of the 30 judgements issued in 2020 on legal challenges against the Board<sup>40</sup>, 19 decisions were not upheld, which is equivalent to less than 0.7% of all Board decisions<sup>41</sup> and less than 0.07% of all planning applications made in 2020<sup>42</sup>. It should also be noted that almost 30% (or 54) of all cases (total 184) were withdrawn or dismissed in 2020.

As noted in last year's report, the subject matter of many planning-related judicial reviews concern planning decisions that involve the implementation of statutory requirements of EU environmental directives, such as Environmental Impact Assessment (EIA) Directive, Habitats Directive and Water Framework Directive.

The OPR will seek the development of a database of Judicial Review cases in the planning sector.

This will be done with the Department of Housing, Local Government and Heritage, the Courts Service, the Local Government sector and the Board, in order to track, in more detail the trends and recurring aspects of judgements that can be harnessed in feeding back into national planning knowledge, research and training programmes.

<sup>38</sup> It disposed of 1,880 planning appeals, 126 SHD cases and 19 SID cases (An Bord Pleanála Briefing Note 2020).

<sup>39</sup> Note due to the time delay in making a legal challenge, there will not be a complete calendar year overlap between year the decisions made and the legal challenge was submitted.

<sup>40</sup> Excluding those cases discontinued, dismissed or withdrawn (8), and those in which the Board consented to quashing of order (13).

<sup>41</sup>  $19/2025*100=0.94\%$

<sup>42</sup>  $19/(27,321+126+19)=0.69\%$



*“Between 2017 and 2020, there has been an increase of c.74% in the number of legal challenges brought against decisions of the Board.”*





## 11. Other Relevant Data

### → 11.1 Finance: Cost Recovery

The financial statistics for local authorities, published by the Department (2019 being the latest year for which audited annual financial statements are available) indicate that income from fees totalled in excess of €25.6m in 2019, a slight increase of €1.3m in the previous year.

Data is not yet available for 2020 therefore we cannot make comment or fully understand the financial impact of the pandemic on the planning system. It is likely that income streams in 2020 will be further reduced in line with the volume of applications, while the costs of delivering the planning services may have increased with the volume of development plans under review in 2020 and the resource implications associated with plan-making. The OPR will examine these aspects as and when the data becomes available.

In relation to 2019 the data suggests that the cost of providing planning services (forward planning, development management and enforcement), amounting to almost €144m in 2019 (compared to €140m in 2018), significantly exceeds income available through user fees.

In 2019 income from planning fees (which have not increased since 2001 and are a matter for the Minister) amounted to less than 18% of operational costs (and less than 30% of the cost of providing development management services alone at €85m).

By comparison, other local authority services have the following income to expenditure ratios:

- Housing and building: 98%
- Road, transportation and safety: 63%
- Environmental services: 30%.

The planning process has become significantly more sophisticated in recent years, particularly as regards implementation of European Directives in the environmental area within the plan-making and decision-taking areas. In addition, there is growing demand for investment in online planning services which typically requires significant investment in hardware and software requirements. Therefore, ensuring user fees take into account the cost of providing services required as result of statutory requirements is important.

In late 2020 the OPR, through engagement with key stakeholders including the Department of Housing, Local Government and Heritage and LGMA, agreed to undertake a study of the local authority sector with a view to developing a Learning and Development Strategy for the sector. As part of this exercise more specific information on the availability of staff resources, including professional planning and other disciplines essential to the planning process within local authorities will be established as an initial baseline. The OPR in partnership with County and City Management Association will further progress this work in 2021.

## → **11.2 Staffing and Resources**

An overall headcount of technical and administrative staff working in local authorities across the state, or within the individual authorities, is not readily available. This makes it difficult to determine the staffing resources dedicated to implement government planning policy on the ground and prevents a comparison between authorities.



**Carlingford, Co Louth**

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