

Research and Library Services



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Briefing Paper

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COMPARATIVE PLANNING SYSTEMS

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This paper provides information on comparative planning systems in Germany, Switzerland and the Republic of Ireland.

Research Papers are compiled for the benefit of Members of The Assembly and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

SUMMARY OF KEY POINTS

This paper provides background information on the planning systems found in Germany, Switzerland and the Republic of Ireland.

GERMANY

- Planning is a multi-layered process which takes place at four government levels.
- A hierarchy of development guidelines and plans exist at Federal (top), Länder (state), Regional and Municipal (local) levels.
- Each government tier has varying degrees of planning responsibility and legal power within the planning process.

Government Tier	Planning Responsibilities	Function
Federal	Guidelines and Principals	Co-ordination between national and Länder planning.
Länder (State)	State Development Plan	Establishment of principles for planning within the state.
Regional (Government Districts)	Regional Development Plan	Co-ordination of and establishment of principles for planning within the region.
Municipal Level 1	Preparatory Land-Use Plan	Binding future municipal development planning.
Municipal Level 2	Land-use Development Plan (Legally binding)	Planning smaller scale developments in detail.

- The majority of planning takes place at local levels and the core planning document is called the local land use plan (Bebauungsplan) which is legally binding.
- Incentives in favour of development are embedded within the planning system.

SWITZERLAND

- The planning function operates within a highly decentralised and devolved political and administrative system.
- Taxes are raised at local government levels and therefore, Municipalities are in direct competition for the tax revenue that residents provide.

Government Level	Planning Responsibility
Federal	Principles of land use planning and coordination of planning undertaken by Cantons.
Cantons	Development of guiding plans which zone land and target development.
Municipal Level	Development of local guidance plans and detailed use plans.

- Municipalities hold the greatest amount of planning responsibility of all the government tiers.
- They are responsible for developing comprehensive land use plans and providing development control functions.
- As with the German system, there are factors embedded in the planning process that favour development.

REPUBLIC OF IRELAND

- Planning takes place at range of government levels.
- The Department for the Environment, Heritage and Local Government (DEHLG), Local Authorities, Regional Authorities and An Bord Pleanála, implement the planning process.

Government Level	Planning Responsibilities
Central Government	Provision of legal definitions of development through statutory regulations. Provision of policy directives to local authorities and An Bord Pleanála. Provision of Policy statements and guidance. Development of National Spatial Strategy.
Planning Appeals Board	Acts as Independent quasi-judicial body which determines all planning appeals.
Regional Authorities	Provision of administrative and monitoring role with focus primarily on the activities of local and other public authorities.
Local Authorities	Preparation of statutory development plans. Development control. Strategic and detailed proposals for land use.

- The National Spatial Strategy 2002-2020 is the national strategic planning framework for the Republic of Ireland and is led by the DEHLG.
- Further development planning is undertaken by local authorities who are responsible for the creation and implementation of local development plans and development control.
- The Republic of Ireland is unique among its European counterparts in that it operates a third party appeal system.

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1. INTRODUCTION

This paper has been prepared for the Committee of the Environment to provide information on comparative planning systems in Germany, Switzerland and the Republic of Ireland.

The report considers the following elements of each of the comparative planning systems.

- Implementation Bodies
- Development Planning
- Development Control
- Appeal Mechanisms
- Effectiveness

Unlike Northern Ireland, these countries operate planning systems in which the majority of planning is undertaken at local government level. The 2007 review undertaken by the Construction Employers Federation of the Northern Ireland planning system, concluded that the centralised approach as found in Northern Ireland, is not delivering an efficient and effective planning service and that a return of decision making on area plans and planning applications to local representatives would be welcomed.¹

2. NORTHERN IRELAND PLANNING – CONSTRUCTION EMPLOYERS FEDERATION REVIEW

The Construction Employers Federation has called for a fundamental review of the planning process in Northern Ireland following its 2007 report, *Review of Planning Processes in Northern Ireland*. This considered how the current Northern Ireland planning system could be improved and outlined 35 recommendations and proposals to make the system more effective.

Conclusions outlined “that:²

- the Planning system in Northern Ireland is based on the centralised model adopted throughout the UK;
- the centralised planning system in Northern Ireland is not delivering an efficient and effective service to ensure economic prosperity and continued growth in the economy;
- most of the targets set by Planning Service in the recent past have not been met;
- research has shown that this centralised plan led system has produced significant land shortages for housing development which in turn has produced some of the most expensive and cramped housing in Europe; and

¹ Construction Employers Federation, *Review of Planning Processes in Northern Ireland*, 2007, pg 2. <http://www.cefni.co.uk/pdf/CEF-Planning-Report-mainreport.pdf>

² Construction Employers Federation, *Review of Planning Processes in Northern Ireland*, 2007, pg 2.

- other planning models in Europe based on more effective local political control have stabilised house prices over many years and produced much bigger houses of higher quality.”

This report shall consider the three European planning systems of Germany, Switzerland and the Republic of Ireland in which the majority of planning is undertaken at local government level.

3. GERMANY

Germany has a population density that is broadly comparable to the UK however its housing market displays very different characteristics. House prices in Germany have remained stable over the last 40 years, average house sizes are larger than in the UK, housing stock is newer and housing affordability problems have been avoided.³ Academics have attributed this to its polycentric planning system.⁴

The Planning System

Planning in Germany is a multi-layered process which takes place at four government levels. A hierarchy of development guidelines and plans exist at the Federal (top), Länder (state), Regional, and Municipal (local) levels of government. Each government tier has varying degrees of planning responsibility and legal power within the planning process.

Interaction occurs between the different government levels and plans set at lower levels must fit within the framework identified by upper tiers. Federal guidelines are identified by the Bundesgovernment which are then elaborated into state development programmes. These are subsequently elaborated into regional development plans and further into local land use plans. Plans developed at lower levels must be reviewed and approved by the tier above them within the hierarchy i.e. regional plans must be approved by the state and local plans must be approved by the regional authority.

Table 1: Summary of Levels of Land Use Planning in Germany⁴

Government Tier	Responsibilities	Function
Federal	Guidelines and Principals	Co-ordination between national and Länder planning.
Länder (State)	State Development Plan	Establishment of principles for planning within the state.
Regional (Government Districts)	Regional Development Plan	Co-ordination of and establishment of principles for planning within the region.
Municipal Level 1	Preparatory land-use plan	Binding future municipal development planning.
Municipal Level 2	Development Plan (Legally binding)	Planning smaller scale developments in detail.

³ Evans, Hartwich, *Bigger Better Faster More – Why some countries plan better than others*, Policy Exchange, 2005, pg 14, <http://www.policyexchange.org.uk/images/libimages/141.pdf>

⁴ Ibid, pg 15.

Development Planning

The top tier of planning in Germany occurs at the Federal level. The role of The Federal Division for Building and Spatial Planning (a department found within the Federal Ministry of Transport, Building and Housing) emanates from the Federal Spatial Planning Act which sets out some of the principles, goals and guidelines for planning and development within Germany. In addition to this, the Act also outlines mandatory instructions to the Länder, which must establish comprehensive planning programmes for their territories.⁵

Each of the 16 Länder or states are responsible for drawing up a state development plan. This is a summarising and supervising document which outlines the situation within each state and provides guidance on planning that must be undertaken at more localised levels. These documents are not legally binding and act essentially as frameworks for future development.

At the regional level a further plan is devised. This plan elaborates on the principles contained within the state plan. Each region is obliged to develop a plan and their primary aim is to co-ordinate planning carried out at local levels.

The Municipal or local tiers of government hold the greatest amount of responsibility in terms of land use planning. This responsibility not only arises from an individual act of parliament but also derives from the German constitution of basic law which asserts that, "Municipalities must be guaranteed the right to regulate all local affairs on their own responsibility".⁶

There are two stages to planning at local level. The first is the development of a preparatory land use plan which zones land for future use. This can be general in nature and defines zoning for the entire municipal territory according to the needs of the area. This is entirely preparatory and is not legally binding.

From this arises the core planning document, the Bebauungsplan or local land use plan. These are prepared for certain areas within the municipality and are legally binding.

Development Control

Local land use plans, as prepared by the Municipalities, are legally binding and must be observed for all applications for development.

Regulations ensure that the Municipalities have the legal power to determine a number of building characteristics contained within land use plans. In total, 26 categories exist and examples include: type of building, minimum and maximum dimensions, width of plots, use of land and number of dwellings etc.⁶

In addition to this there are 10 possible characters which must be assigned to areas within development plans. These outline the nature of development planned for a particular area with examples including: 'pure residential', 'industrial estates' or 'core areas'. The Municipalities are bound to use these characters and once an area has been assigned a character, there are certain regulations that must be adhered to.⁶

Development Control and the Incentive for Development

A number of incentives that act in favour of development are embedded within the German planning system. Article 14 of the basic law states that the "property and the right of inheritance shall be guaranteed" meaning that everyone is entitled to build on

⁵ Ibid, pg 15

⁶ Ibid, pg 16.

his or her property as long as there is no explicit rule against it.⁷ In effect, this means that once an area has been assigned to a certain planning character the question as to whether permission will be granted or not is no longer a matter of discretion. Provided that the application fits into the plan, permission must be granted. If an authority should deny permission a court will overturn it.⁷

The federal structure of taxation found within Germany also influences planning practice within the Municipalities. Local income tax share and state government grants are directly linked to local income tax revenue and thus the number of inhabitants residing in the council area. This relationship between tax revenue and inhabitants has therefore led to competition between neighbouring Municipalities and with inhabitants attracted by attractive housing, this is what must be delivered.⁸

Effectiveness

In addition to the positive impact that this process has on the Country's housing market a number of counter arguments also exist. Municipalities on the fringes of large urban settlements are often in a better position to release land for housing and this has resulted in suburbanisation and depopulation within city centres. This may result in decreased income streams for city centre Municipalities which are often the areas that require comprehensive public spending.

4. SWITZERLAND

Academics have stated that there is probably no other country in the world that is as decentralised and devolved as Switzerland.⁹ The political and administrative function in Switzerland is large for its population of 7.3 million. There is a national parliament consisting of two chambers, a national government and federal president. Below this there are 26 sovereign cantons that comprise of 2,902 largely autonomous municipalities. Taxes are determined and raised at local government level meaning that all council areas are trying to attract new inhabitants and it is within this context that the Swiss planning system must be considered.

The Planning System

The planning system follows the structure of the political system of the Swiss Federation and works on all tiers of government. That is, the Federal (top), canton (state/region) and municipal (local) levels. As in the German planning system, the top tier provides principles and guidance on planning which are then detailed at local levels. The Federal Land Use Planning Act lists the basic procedural requirements of land use planning. The Act goes on to rule the requirement of all tiers and branches of government to participate in planning.

Table 2 overleaf outlines the key roles and responsibilities for land use planning in Switzerland.

⁷ Ibid, pg 16

⁸ Ibid, pg 19.

⁹ Ibid, pg 28.

Table 2: Land use planning in Switzerland

Government Level	Responsibility
Federal	Principles of land use planning and coordination of planning undertaken by Cantons.
Cantons	Development of guiding plans which zone land and target development.
Municipal Level	Development of local guidance plans and detailed use plans.

Development Planning

Planning begins at the Federal level. Its role is defined in the Federal Constitution which states that the Federation will:

- “lay down the principles of land use planning which is the responsibility of the cantons and serves the expedient and economical use of land and the ordered settlement of the country”;
- “support and coordinate the efforts of the cantons and work together with the cantons”; and
- in conjunction with the cantons “take into consideration the requirements of land use planning as far as the fulfilment of their tasks is concerned.”¹⁰

The next level of land use planning therefore rests with the cantons. Their tasks include the:

- “development of guiding plans which determine the principles to which their area shall develop”;
- “determination of which areas are suitable for agriculture, recreation, of natural importance or are threatened by natural disaster”;
- “provision of information on the state of the targeted developed of settlement, traffic, the utilities, public buildings and facilities”; and
- “consideration of the concepts and special affairs plans of the Federation and the guiding plans of neighbouring cantons as well as regional development concepts and plans”.¹⁰

The guiding plan is legally binding only for public authorities who must accept the plan as a given for their own planning-related activities. There may be more than one guiding plan for each canton.¹⁰

Municipalities must then produce local guidance plans. Local statues define how such plans come into existence but this will vary between municipalities. In any case, these plans will be subject to approval from the canton. These plans cannot overturn decisions contained within the canton plan, only detail them further.¹⁰

Furthermore, more detailed plans are developed called use plans. These deal with single plots of land and are legally binding not only for the purpose of public administration but for the private land owner who must be absolutely clear on what may and may not be built on their land.

¹⁰ Ibid, pg 31.

Development Control

Each plot is classified as either building land, agricultural land or a protected area. These classifications may be further differentiated at the local level. The effect of this zoning is broadly comparable to the German system in that if a building satisfies the zoning identified, permission must be granted. However, due to a vague statement in planning legislation, authorities have some ability to grant or deny permission based on the character of the development.¹¹

Development Control and the Incentive for Development

As in the German system there are a number of factors embedded within the political and planning process that work in favour of development. The first is what is known as the 'militia' principle. This arises from the fact that many local and cantonal governments are made up of politicians who are also professionally working in the building and construction sector. Evans and Hartwich note that, "although this sounds like the building lobby is capturing the political process, in effect it actually ensures that building practitioners have representation in the planning process from the beginning".¹²

Furthermore, regulations for development exist which provide local developers with an advantage when tendering for local public projects.¹² It could certainly be argued that this may encourage developers to build close ties to local decision makers.

Effectiveness

In terms of the property market, prices have remained fairly stable (less stable than in Germany but more so than the UK). The construction sector has boomed and the result has been the development of larger, more spacious homes. Relatively speaking, Switzerland has experienced much higher building rates than that found in the UK.¹³

However, it is also important to note the affect that the Swiss taxation system has on building patterns and population movement. The cantons and municipalities are largely autonomous in raising their taxes which results in competition between local governments for tax revenue. Attractive property development is one way in which a population may be increased however, this can result in a movement away from central conurbations as it is often easier to release land for more attractive housing on the fringes of settlements. In Switzerland, this has resulted in large concentrations of the less socially well off residing in city centres. A vicious circle ensues whereby tax revenues are lower in the areas in which they are most needed. The City of Zurich lost 100,000 inhabitants since the early 1960s for this very reason.¹⁴

The Environmental argument is one which cannot be overlooked. There is little doubt that there is a clear link between building spacious housing and the release of Greenfield land for development.

¹¹ Ibid, pg 32.

¹² Ibid, pg 33.

¹³ Ibid, pg 35.

¹⁴ Ibid, pg 37.

5. REPUBLIC OF IRELAND

The Planning System

The current Irish system was introduced on the 1st October 1964 through the Local Government (Planning and Development) Act. This introduced a statutory development plan and development control system for which the objective was to: “provide, in the interests of the common good, proper planning and sustainable development, including the provision of housing”.¹⁵

Agencies involved in planning process in the Republic of Ireland include Local Government Authorities, An Bord Pleanála, Regional Authorities and the Department of the Environment, Heritage and Local Government (DEHLG).

Table 3 below outlines the key agencies and their planning responsibilities.

Table 3 – Land Use Planning in the Republic of Ireland

Government Level	Planning Responsibilities
Central Government	Provision of legal definitions of development through statutory regulations. Provision of policy directives to local authorities and An Bord Pleanála. Provision of Policy statements and guidance. Development of National Spatial Strategy.
Planning Appeals Board	Acts as Independent quasi-judicial body which determines all planning appeals.
Regional Authorities	Provision of administrative and monitoring role with focus primarily on the activities of local and other public authorities.
Local Authorities	Preparation of statutory development plans. Development control. Strategic and detailed proposals for land use.

Development Planning

The Minister for the Environment, Heritage and Local Government is responsible for developing planning policy and legislation. The large body of planning legislation that was introduced in the years since 1964, reflects the expansion of the statutory development control system to meet the demands arising from economic growth, rising public concern in the area of environmental control, a desire on the part of the public for a statutory and independent planning appeals system, and a growing European dimension arising from Ireland’s membership of the European Union.¹⁶

National Spatial Strategy

The National Spatial Strategy 2002-2020 (NSS) is the national strategic planning framework for the Republic of Ireland. It aims to achieve a better balance of social, economic and physical development across Ireland. The Minister for the Environment Heritage and Local Government is responsible for the plan’s implementation.

¹⁵ Department of the Environment, Heritage and Local Government, *Planning Overview*, <http://www.environ.ie/en/DevelopmentandHousing/PlanningDevelopment/Planning/Overview/>

¹⁶ DEHLG, *Planning Overview*, <http://www.environ.ie/en/DevelopmentandHousing/PlanningDevelopment/Planning/Overview/>

“In order to drive development in the regions, the NSS requires that areas of sufficient scale and critical mass be built up through a network of gateways and hubs. In addition, it identifies nine, strategically located, medium-sized "hubs" which will support, and be supported by, identified gateways and will link out to wider rural areas”.¹⁷

The NSS also sets out the policies on spatial planning adopted by the Government at national level.

In 2004 Regional Planning Guidelines (RPGs) were introduced. These policies were put in place to translate the overall national approach of the NSS into policies at regional and local levels. While working within the national framework of gateways, hubs, other towns, villages and rural areas, the RPGs provide more detailed regional level guidance, assisting planning authorities in framing County, City and Local Area Development Plans.¹⁸

As well as overseeing the implementation of RPGs, the DEHLG monitors the preparation of County, City and Local Area Development Plans to ensure that they are consistent with the objectives of the NSS.

Development Planning within Local Authorities

The majority of development planning is undertaken by the local authorities who are responsible for:

- Housing and building;
- Road Transportation and Safety;
- Water Supply and Sewerage;
- Development incentives and controls including planning;
- Environment protection;
- Recreation and amenities;
- Agriculture, education, health and welfare; and
- Miscellaneous services.

The main instrument for regulation and control of development is the Development Plan. Each planning authority is responsible for the development of its individual plan which is a formal document defining policies affecting the physical environment of the area. It lays down guidelines and standards and contains specific objectives which the planning authority must implement within the period of the plan.

In terms of content, the development plan sets out the overall strategy for the proper planning and sustainable development of the area. The plan will contain zoning of land for residential, commercial, industrial, agricultural and other uses. In addition to this, objectives relating to infrastructure, the environment and preservation of the landscape, protection of structures, potential regeneration sites, accommodation for travelers and amenities etc. will be identified.

¹⁷ DEHLG, *National Spatial Strategy*,
<http://www.environ.ie/en/DevelopmentandHousing/PlanningDevelopment/NationalSpatialStrategy/>

¹⁸ Ibid

Development Control

All development in the Republic of Ireland requires planning approval. An application can be made for either outline permission or full approval. Outline permission is an agreement in principle that a development of a specific nature and extent may be carried out but does not authorise the carrying out of works. Full approval may be granted following detailed consideration of the plans however may be subject to additional conditions. Planning permission normally expires after 5 years.

Appeal Mechanism

An Bord Pleanála is the independent Planning Appeals Board which has the statutory duty to determine planning appeals; referrals; compulsory purchase orders and infrastructure projects. The primary role of the Board is to determine appeals made by public in relation to the granting or refusal of permission.

Ireland is unique among its European counterparts in that it operates a third party appeal system. In effect, this means that both a first party, ie the applicant applying for planning permission and a third party, ie any other person, body or interested group who made submission or observations to a planning application, may appeal the decision made by the local authority. Both first and third parties have 4 weeks from the date of the decision to do this. The Board's decision is final and may only be challenged by way of Judicial Review in the High Court.¹⁹

Effectiveness

Ireland's so called Celtic Tiger economy grew considerably in the 1990s resulting in a rising population, falling unemployment and increased dominance of Dublin as a capital city. In order to facilitate this growth there was a need for increased property development. An increase of some 200% in the number of houses built was experienced in Ireland between 1994 and 2004.²⁰

Statistics from the DEHLG also demonstrate the growth in the property development and planning sector. In the 8 years between 1999 to 2006, the average number of planning applications received annually was 78,000. This is compared the average annual number of 49,000 which was experienced between 1992 and 1998. 2006 represented a record high of 93,000 applications.²¹

In 2006, planning authorities made 80,029 planning decisions which was also a record high. Of the decisions made, 81.3% were grants of permission and 18.7% were refusals.²²

Unlike the previous planning systems considered, the Republic of Ireland has been characterised by rising house prices, the development of an abundance of large scale housing developments and increasing affordability issues. The Irish Press has also informed on a planning system that is overloaded and under resourced.

Academics also note that because the Irish system does not provide local incentives for development and ultimately must rely on central government to push through large scale developments, it will never be flexible enough to deal with demand at an

¹⁹ An Bord Pleanála, <http://www.pleanala.ie/about/index.htm>

²⁰ Spatial Planning in the Republic of Ireland, School of Geography, Planning and Environmental Planning, University College Dublin, 2006.

²¹ DEHLG, *Planning Statistics*, pg 2.

<http://www.environ.ie/en/Publications/StatisticsandRegularPublications/PlanningStatistics/FileDownload,15333,en.doc>

²² Ibid, pg 2.

early enough stage.²³ The impact of such a system resulting in a “quick-fix filling of the supply gap for first time buyers” which arose due “to pressure on local planners and politicians to deliver housing quickly against a lack of existing amenities and public services.”²³

²³ Evans, Hartwich, *Bigger Better Faster More*, Policy Exchange, 2005, pg 54.