

COMHAIRLE CONTAE FHINE GALL

FINGAL COUNTY COUNCIL

FINGAL DEVELOPMENT PLAN 2023-2029

TUESDAY, 20TH SEPTEMBER 2022

Chapter 14 - Development Management Standards

Motion from Councillor Siobhan Shovlin: 82211

Planning Complaints and Investigations

That this Council will produce a transparent policy on the process of dealing with planning complaints, investigations, and breaches, outlining the steps involved and requiring communication at every stage with the stakeholders involved.

REPORT:

While the content of this motion is noted, it is considered to be outside the scope of the Development Plan. Notwithstanding, set out below are the steps involved in the process of making the Development Plan along with complaints procedures relating to planning breaches.

The process of making a Development Plan must be open, transparent and inclusive. All interested individuals and organisations, at Local, Regional and National level, must be given adequate opportunity to comment or make submissions for consideration by the Elected Members before the policies, objectives and measures to be included in the Plan are decided upon. Consultation provides a key opportunity for citizens, stakeholders, community groups, businesses and the general public, including children, to ensure that their views are considered in shaping the future of their community and their County.

The Draft Plan has been prepared in accordance with the requirements of the Planning and Development Act 2000 (as amended), higher tier national and regional level plans, ministerial guidelines and with regard to local level strategies and plans. The formal process for the preparation of this Draft Plan commenced on 12th March 2021 and to date two rounds of public consultation have taken place, as the Planning and Development Act 2000 (as amended) requires.

In terms of a planning breach, should a member of the public feel that there has been a potential planning breach, our Planning Enforcement Division are responsible for investigating such matters, once reported. Planning breaches are taken seriously and investigations into such matters are carried out in accordance with the process outlined in the Planning and Development Act 2000 (as amended). Complainant's details are treated with the greatest confidence and are not released to any third party and are not included in the Council's Planning Register.

The Office of the Ombudsman may examine complaints where a person is unhappy with how they have been treated by a local authority in the carrying out of everyday administrative activities.

In relation to planning, the Ombudsman may examine whether a planning authority has used its discretionary powers in a reasonable manner in relation to a decision not to pursue enforcement action or an unreasonable delay in progressing enforcement action. The Ombudsman cannot examine a decision to grant or refuse planning permission or a decision made by the elected members of a local authority, such as the adoption of a Development Plan.

The OPR provides a fair and independent mechanism through which members of the public may submit complaints related to the planning services delivered by local authorities in Ireland. However, it is important to understand that there are only certain types of complaints which the OPR can investigate. It is not their purpose to review individual planning cases but to examine the overall functioning of the planning system. Under legislation, the OPR can only examine complaints about local authorities that relate to the overall organisation of the authority and the systems and procedures it uses when carrying out its planning functions. In this regard complaints should concern:

- Regular / repeated breaches of an authority's obligation to carry out its planning functions in accordance with legislation and / or national policy requirements.
- Significant failures in proper administrative procedures which result in serious diseconomies and inefficiencies in delivering planning services to the general public.
- Existence of systemic discrimination or a risk of corruption.

As such, it is considered that several options are available to the public in relation to planning complaints, investigations and breaches, but these are not matters for the Development Plan which is a strategic spatial document setting out the overall 'big picture' objectives and framework against which future development proposals/initiatives can be guided across the whole County.

RECOMMENDATION:

No change to the Draft Plan.