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Politicians and the Irish Planning Process: Political culture and impediments to a strategic approach

Berna Grist

Introduction

This article reviews recent controversy in relation to land use planning in the Republic of Ireland. It reflects the situation at the end of 2009, however where significant events took place during 2010, a footnote has been added to update the reader. For a fuller appreciation of the issues involved in this controversy, some prior understanding of the wider political and governmental context is required.

The Republic of Ireland is a parliamentary democracy based on the Westminster model, with a bicameral legislature, the Oireachtas, composed of an Upper and a Lower House , the latter being directly elected by universal suffrage. The Government emerges from the Lower House, and consists of a Prime Minister, called the Taoiseach, and fourteen other ministers including the Minister for the Environment. The Irish system of proportional representation has given coalition governments since 1987, with the largest political party in the State having been the senior party in a coalition government for nineteen of the last twenty two years. This party, Fianna Fail, is widely recognised as having strong links to development interests.[1] Since 2007, its junior partner in government has been the Green Party, which holds two of the fourteen ministerial portfolios; namely Environment and Energy.

Again as a consequence of history, Ireland has a common law system. From 1801, Ireland returned a number of members to the Houses of Parliament in Westminster and the normal procedure was for an Act to be passed in respect of Britain and, some five to ten years later, a corresponding Act would be passed for Ireland. So in 1898, ten years after the adoption of similar legislation in Great Britain, the Local Government (Ireland) Act

[1] Links between the Fianna Fail party and builders/developers are described in Paul Cullen, *With a Little Help from my Friends* (Dublin, 2002), particularly at pages 5–6, and are extensively discussed in Frank McDonald and Kathy Sheridan, *The Builders* (Dublin, 2008). These links were officially recognised in the *Second Interim Report of the Tribunal of Inquiry into Certain Planning Matters and Payments* (Dublin, 2002)

established a system of county and city councils on an all island basis. This framework is still largely in place, in contrast to England, Scotland and Wales, where the counties have been all but forgotten due to administrative boundary changes over the intervening eleven decades. In Northern Ireland, although functional responsibilities have been significantly reallocated, there is still a strong county identification. The 1898 Act vested considerable powers in the county councils and also extended the franchise to a whole class of minor landowners. This new category of voters largely returned nationalist councilors and the county councils became centres of nationalism.[2] A pattern of opposition towards the Local Government Board in Dublin – the equivalent of a direct rule minister in more recent times – was compounded by inefficiencies in the discharge of functions and corruption in the making of those decisions which had the potential to confer benefits on individuals.[3] Independence in 1922 did not change this culture and, in 1940, a significant alteration had to be made to the structure of local government in order to maintain a functioning system.

The duties and powers of local government were divided between the elected members and the manager, a newly created and permanent office holder appointed by the Local Appointments Commission in Dublin. The basis for the division of functions was that the elected members were to have responsibility for policy and political and financial matters while the manager would take responsibility for administration of decided policy and, in particular, for matters which might be open to personal and political influence.[4]

Planning and local autonomy

When planning was introduced in 1963, although the system was based on the British Act of 1947, it was adapted to reflect this local government structure. The making of development plans was allocated to the elected members and the decisions on individual planning applications, which were recognised as susceptible to political patronage, to the manager. The statutory framework relating to development plans was minimalist, with only five out of ninety-two

[2] Basil Chubb, *The Government and Politics of Ireland* (3rd edn; London, 1992), 269.

[3] J.J. Lee, *Ireland 1912–1985* (Cambridge, 1989), 161, describes the county councils as "a by-word for corruption in their appointments."

[4] The local government management system has been analysed by a number of authors, a good source is Edward Sheedy, 'City and County Management' in Mark Callanan and Justin F. Keogan (eds), *Local Government in Ireland* (Dublin, 2003), 123–42.

sections in the Act dealing with this function. There was no requirement for plans to be approved by the Minister or any higher authority.[5] The approach taken by the legislature and the Department of Local Government, as it then was, seems to have been that the officials would prepare the plan in draft form, it would be presented by the Manager to the councillors who could make changes if they chose but were unlikely to do so. The big emphasis was on roads, renewal of dereliction and amenities – the term 'zoning' was not even mentioned although all plans had to contain objectives 'for the use of particular areas for particular purposes'. This local autonomy for a function considered to be of limited political potential was an innocuous element of the planning system for its first two decades but has since proved to be the Achilles heel of the entire process.

The local planning system in operation

By the mid 1980s, concerns were being expressed about the plan-making activities of county councillors in the Dublin area, the only part of the country where land values were significant and where there were pressures from development opportunities. Reports by the National Institute for Physical Planning and Construction Research, An Foras Forbartha, identified this in diplomatic language and described the growing trend for elected representatives to disregard technical advice in favour of an 'intuitive' approach to plan making.[6] To avoid the growing problem of overzoning, while still retaining the local autonomy which was jealously guarded by the councillors as they lost almost all their other significant functions, a legislative amendment was proposed. Inspired by the philosophy behind the management system – that elected representatives should be concerned with policy matters and the manager responsible for matters which might be open to personal/political influence – the report suggested that the adopted plan should contain only the framework and overall structure of future development with maps in diagrammatic form and, thereafter, the final zoning would be the result of a technical analysis by the officials in the context of the agreed settlement strategy and the availability of services. It contained the recommendation

[5] In the Local Government (Planning and Development) Act, 1963, sections 19 to 23 inclusive dealt with development plans.

[6] Berna Grist, *The Preparation of Development Plans – a survey of the process* (Dublin, 1984), 35.

that, 'Consideration should be given to a legislative amendment which would separate these functions of intuitive formulation and detailed technical analysis in plan-making'.[7]

This analysis and recommendation fell on deaf ears at national level. With one honourable exception, a Labour Minister for the Environment in 1996,[8] successive Ministers for the Environment did not even use their limited statutory powers of intervention to moderate the development plan-making activities of local authorities but relied on discussions with a view to achieving compromise – and this despite a Fianna Fail Minister for the Environment describing zoning as a 'debased currency in the Dublin area' in 1993.[9]

The tribunal of inquiry into planning matters

In 1989, a Garda (police) investigation took place into allegations of bribery and corruption in the planning process, which led to one unsuccessful prosecution. A further Garda investigation in 1993 resulted in no action by the Director of Public Prosecutions for want of sufficient evidence. Finally in 1995, a reward of £10,000 was offered for information relating to corrupt rezoning practices in the Republic of Ireland by a Newry-based firm of solicitors, acting on behalf of two unnamed clients. No Irish solicitor wanted to handle the matter.[10] One of the persons who responded was a former managing director of a building company, Mr. James Gogarty, and the information he supplied was the key factor in the establishment of the Tribunal of Inquiry into Certain Planning Matters and Payments in 1997.

High Court judge Fergus Flood was appointed as the sole member of the Tribunal, which is a non-adversarial forum attempting to establish the facts behind a number of planning and planning-related matters. Public sessions began in Dublin Castle in January 1998 and, so intense was public interest that the first substantive report published in 2002 sold out its full print run of 25,000 copies in a few days. This report detailed the involvement of a former Fianna Fail minister, Ray Burke, with builders Brennan and McGowan and

[7] *Ibid.*, 40.

[8] Berna Grist, 'Local Authorities and the Planning Process' in Mary E. Daly (ed.), *One Hundred Years of Local Government in Ireland* (Dublin, 2001), 134.

[9] Michael Smith TD, Minister for the Environment, Speech given at the Irish Planning Institute Awards Ceremony on 11 May 1993.

[10] Donnelly Neary Donnelly, Solicitors, of Newry, Co. Down in Northern Ireland placed an advertisement in the *Irish Times* on 3 July 1995

their related companies and with the allegations that caused the tribunal to be established – the payment of money to Mr. Burke at his home at Briargate, Swords, North County Dublin in June 1989.

In 1967, Ray Burke had become a Fianna Fail councillor on Dublin County Council, holding his seat until 1978 when he became a minister. Between 1967 and 1982, Ray Burke had an auctioneering and estate agency business and was selling houses in County Dublin for builders Brennan and McGowan. The report disclosed a tangled web of offshore companies with exotic names such as Caviar Ltd. Writing in a clear and unambiguous style, Mr. Justice Flood concluded that a number of corrupt payments were made to Ray Burke, including :

- The transfer to him of his home, Briargate, by Brennan and McGowan;
- Payments by Brennan and McGowan to the account of Caviar Ltd, the tribunal being satisfied that Mr. Burke acted in the interests of these builders in the performance of his public duties; and
- Payments by Murphy Construction and Bailey Builders in 1989, made to secure his support and influence over others in order to achieve a favourable alteration in the planning status of lands in which both development companies had an interest.[11]

In 2000, a former Fianna Fail and, subsequently, government press secretary now turned public relations consultant, Frank Dunlop, was called to give evidence to the tribunal. Initially, he gave vigorous denials to all suggestions of wrongdoing but, faced with proof of large sums of money moving through undisclosed bank accounts under his control and an invitation from Judge Flood to reflect overnight on his evidence, Mr. Dunlop started to admit that the payments he had made to councillors were connected to their stance on rezoning. Up to this, all concerned (recipients, lobbyists and principals/developers) had claimed such payments were 'political donations'. He revealed the names of those involved, in confidence to the tribunal, and later gave some 130 days of public evidence, identifying various parcels of land throughout county Dublin that had been rezoned and the manner in which payments had been made.

The tribunal, now chaired by Judge Mahon and consisting of three members, has yet to report on this stage of its investigations. The pace of this second stage of the tribunal's work has been extremely slow. Obstructed frequently by legal challenges and faced with detailed cross-examination of all principal witnesses by teams of top barristers, public sessions only concluded

[11] *Second Interim Report of the Tribunal of Inquiry into Certain Planning Matters and Payments* (Stationery Office, Dublin, 2002), 138–40.

in October 2008 and its report is not anticipated until 2010.[12]

However, in May 2009, Frank Dunlop was sentenced to two years imprisonment and a fine of EUR30,000 on a charge of corruption brought by the Director of Public Prosecutions and Garda sources have indicated that a number of politicians are liable to be prosecuted. The core group of councillors pointed to by Frank Dunlop's evidence as having received large payments belonged to both Fianna Fail and the main opposition party, Fine Gael.[13]

Attempts at reform: the tensions in a strategic approach

The regional dimension has always been a weak link in the Irish planning system. In 1994, eight regional authorities were established by grouping counties together but the strength of the county councils, in terms of the political grassroots underpinning all major political parties, is such that the Minister for the Environment had to carefully reassure the local authorities that these new regional bodies would not diminish or restrict their powers. Membership of the regional authorities is composed of city and county councillors selected by the constituent local authorities and they were given advisory functions but no executive powers.[14]

The planning code was revised and consolidated in 2000, with the Planning and Development Act of that year bringing in a system which was to be strategic in approach. An important element was the introduction of regional planning guidelines, which were to be made by the regional authorities in order to provide the context of a long term framework for individual development plans. The new Act required planning authorities to 'have regard to' such guidelines when making and adopting their development plans. This phrase was interpreted flexibly by the county councillors and, unfortunately, case law[15] confirmed that the phrase 'have regard to' does not require close adherence, which acted as a further encouragement to excessive zoning.

Under the 2000 Act, the Minister was also given enhanced powers in relation to the supervision of development plans at local level. Section 31 provide that, if the Minister considers either a draft or an adopted plan fails to

[12] Judgement in the final legal challenge against publication of this report was not given by the Supreme Court until November 2010 and publication is now expected in mid-2011.

[13] Transcripts of evidence can be accessed at www.planningtribunal.ie.

[14] Berna Grist, *An Introduction to Irish Planning Law* (Dublin, 1999), 46.

[15] *McEvoy v Meath County Council* [2003] 1 I.R. 208

comply with the requirements of the Act, he can direct the planning authority to take specified measures and the planning authority must comply with this Direction. However, in operation, it became clear that section 31 was fatally flawed by the absence of provisions specifying (a) how such compliance is to be achieved and (b) the sanctions in a case of refusal. The absence of such provisions has undermined the s.31 mechanism.

Between 1995 and 2008, Ireland experienced exceptional economic growth. This national prosperity was initially export led but came to rely on land development and the construction industry. Many of the small villages within commuting distance of the cities of Dublin and Cork experienced overzoning to such an extent that their populations doubled within the five years intercensal period to 2006, transforming them into dormitories based on car transport.[16] In respect of towns at all levels of the hierarchy, the problem was that the first lands brought forward for development might be on the periphery of the zoned area, leading to piecemeal growth not dissimilar to the manner in which growth would have taken place in the complete absence of any spatial planning.[17]

Finally, local abuses reached such flagrant proportions that they could no longer be ignored at national level when the 2006 Laois County Development Plan designated a commercial zone on unserviced rural lands at an interchange on the recently constructed M7 motorway, together with such an excessive quantity of residential lands that the National Spatial Strategy Guidelines for the Midlands were threatened. The customary persuasive discussions having proved fruitless, instead of ignoring the problem (as the Council would have anticipated), the Minister issued a s.31 Direction requiring a variation to the 2006 Development Plan to remove both zonings. Further s.31 Directions were issued to Monaghan, Mayo and Waterford County Councils in 2007–8 regarding inappropriate zonings and the Department of the Environment has expressed serious concerns about the 2009 draft plan for County Clare.

The errant councils complied under protest except for Mayo, where the councillors had paid to get expert advice themselves to use against the draft

[16] For example, the population of Donore, County Meath (56km/35miles from Dublin) increased by 118% from 334 to 728 and the population of Rathcormac, County Cork (29km/18miles from Cork City) increased by 149% from 429 to 1072.

[17] John O'Connor, Chairman of An Bord Pleanala (the national planning appeals authority) at the publication of the 2007 Annual Report stated that his Board was 'constantly coming across zoned sites that are too far removed from developed areas' and that many appealed development proposals were 'dependent on long distance commuting by private transport'.

plan prepared by the officials. This draft plan had gone though a process which, under the 2000 Act, involved preliminary public consultations (including with the Department of the Environment), interim reports to the councillors and directions from them on the preparation of the draft. The Mayo councillors argued trenchantly that all the elected members fully supported what they referred to as 'their plan' and that the Minister had failed to engage in dialogue with them or respect their views. The Department pointed to the fact that the Minister's comments were given at various stages, including after the amended draft (the 'councillors' plan') was published. On 4 November 2008, they carried their arguments to the Joint Oireachtas (parliamentary) Committee on Environment, Heritage and Local Government, stating that they objected both to the intervention by the Minister and the manner of this intervention. Although they did not say so outright, they wanted the Committee to find some means of getting the Minister to withdraw the Direction. Discussions subsequently took place between representatives of the Department of the Environment and of Mayo County Council. These led to the replacement of the 2008 Direction with one described by the Department as representing a 'mutually agreed outcome' and which took account of national and regional spatial planning policies. However, the local councillors saw the compromise in a very different light. They hailed the replacement Direction in triumphalist style as a 'reversal' and a 'huge achievement for Mayo' in a series of statements to the press.[18] It would appear that some, if not all, local politicians continue to resent the fact that the Minister and his Department have a strategic leadership role in the formulation of spatial plans, just as their predecessors resented the supervision of the Local Government Board.[19]

The work of the Flood-Mahon Tribunal has proceeded very slowly and, to date, the only prosecution has been against the whistleblower, Frank Dunlop. In these circumstances, it would appear that, far from acting as a deterrent, the disclosures made at the Planning Tribunal have increased awareness among local representatives of their powers of rezoning and of the ease with which payments can be explained as political donations.

Ethics in public office?

The first Ethics in Public Office Act was passed in 1995 in the aftermath of

[18] For example, see the *Mayo News* of 13 October 2009.

[19] Mary E. Daly, *The Buffer State* (Dublin, 1997), 28.

the Tribunal of Inquiry into Irregularities in the Beef Processing Industry and following a change of government 'forced in part on the issue of ethics and standards of truthfulness in public life' as politicians came to recognise 'a growing public cynicism about their conduct'.[20] It was strengthened by the Standards in Public Office Act of 2001 and, in respect of councillors, by Part 15 of the Local Government Act also of 2001. This legislative code requires disclosure of specified interests by elected representatives, office holders and public servants. Breaches of the disclosure requirements are investigated by the Standards in Public Office Commission, which is chaired by a High Court Judge and consists of the Ombudsman and a number of other designated persons. It is not a particularly strong or all-embracing legislative code and, in fourteen years, only two investigations have gone to full public hearing. The second related to a variation of the Town Development Plan for Killarney, County Kerry.

Overzoning began in the Dublin area, but with the growth of the economy, development began to take place throughout the country and the tensions between the 'Manager's Plan' and the councillors' approach to the plan-making process likewise spread to all areas. In March 2006, a motion was passed by the Town Council of Killarney to rezone some 8 hectares (20 acres) at Gleneagles from "Unformulated/Agricultural" to "Tourism/Town Centre Facilities", against the advice of the Manager, who considered the lands were too remote from the physical centre of Killarney town for retail use (approx. 2 km/1.3 miles). One of the councillors who proposed the motion and voted in favour of it was an employee of a hotel owned by the O'Donoghue Family Hotel Group. This Group owned the lands in question. Patrick O'Donoghue, the Managing Director of the Hotel Group, was also a councillor. He had initiated the process by drawing up the motion and approaching other councillors asking for their support, but he had not signed the motion himself. He was present at the meeting when the rezoning was discussed and the vote took place, he declared his interest and took no part in the debate. The matter was subsequently referred to the Commission by the Ethics Officer for the Kerry Local Authorities.

In March 2007, the Commission held a public inquiry into the conduct of both councillors, the first time a planning matter was examined under the ethics legislation in such a forum. In May 2007, the Commission decided that, because of her lack of understanding of her interest, the employee had

[20] Neil Collins and Colm O'Raghallaigh, 'Political Sleaze in the Republic of Ireland', *Parliamentary Affairs*, Vol. 48, No. 4 (October 1995), 697–710 at 697.

not breached the disclosure of interest requirements of the legislation. With regard to Mr. O'Donoghue, it was concluded that he intentionally set out to influence a decision of the Council in which he had a financial interest and that this was a serious breach of the ethics legislation.

In the course of his evidence at the public inquiry, Mr. O'Donoghue made a very interesting statement. He described himself as a businessman, admitted he would have gained from the rezoning and went on to say that, in circumstances where a councillor owns property, he was still not clear how the matter of securing the rezoning of such property should be resolved. This part of his evidence, both in its substance and its language, seems to indicate an unquestioning acceptance that rezoning is a reasonable aspiration for all landowners. If the local culture is one where landowners regularly lobby elected representatives for rezoning, and the councillors respond (whether for financial reward, in order to secure re-election or because of their view of the public good), it is inevitable that situations arise where councillor-landowners want to act as landowners and secure the benefits of rezoning for themselves. From the Commission's decision in this case, it is clear that any attempt by such persons to lobby for rezoning is ethically improper.

Mr. O'Donoghue also highlighted two other elements of the culture of rezoning. In the context of the Manager's opposition to the motion, which was made known to him before the meeting, it was put to him that he must have considered withdrawing the proposal as, presumably, councillors would prefer to have motions supported by the officials. He replied that yes, generally that would be so, but in planning it would not be unusual to deviate from the opinion of the Executive. This attitude, obviously widespread, confirms the disregard of local politicians for technical advice and expertise in planning matters, a situation first identified by An Foras Forbartha in 1984. On the issue of not leaving the meeting, while accepting he would now take a different view of what 'to withdraw' meant (he had relied on his withdrawal from the discussion), he said it never crossed his mind that he should remove himself from the Council Chamber because he could not recall any occasion during his five years on the council when anyone did so. He also pointed out that none of the officials suggested he should leave the room. This evidence, which was not disputed by the Ethics Officer, indicates a worrisome level of indifference at local level to ethics in planning matters.[21]

[21] Sources on which this section of the paper is based include the Book of Statements, the transcript of the Public Inquiry, the formal Decision of the Commission published in May 2007, newspaper reports of the Circuit Court conviction and

The Ethics in Public Office Commission furnished a report on its decision to the Director of Public Prosecutions and Patrick O'Donoghue was subsequently charged and pleaded guilty to the offence of seeking to influence a decision of the local authority of which he was an elected member relating to land in which he had a beneficial interest. The maximum penalty for this offence, under sections 177 and 181 of the Local Government Act, is a fine not exceeding EUR12,500 or imprisonment for a term of two years or both. The Circuit Court Judge had regard to what he described as mitigating circumstances – Mr. O'Donoghue had not attempted to conceal his interest in the land at any time and had a mistaken but honest belief that he was not acting illegally. He imposed a fine of EUR5,000 and held that a custodial sentence would be inappropriate. An automatic consequence of conviction for an offence under s.177 is that the councillor is disqualified from being elected or co-opted to, or from being a member of, a local authority for five years from the date of the conviction. Mr. O'Donoghue had to resign from the Town Council and was unable to go forward as a candidate in the 2009 local government elections.

The Temptation to Corruption

Light regulation has destroyed national and international banking systems. Likewise, a light supervisory mechanism of plan making at local level has allowed the growth of a culture of overzoning in the Republic of Ireland and the development of links between this and corrupt practices. Such a situation is hardly surprising when windfall profits are made on the vastly increased value of land which follows rezoning. In 1983, this problem was recognised, again through research carried out by An Foras Forbartha, and expressed in the following terms :'The magnitude of gains in the value of land after zoning for development means the elected members of planning authorities are subjected to extraordinarily heavy pressures from landowners when a development plan is being adopted'.[22]

Over a decade earlier, in January 1971, a committee of experts was established by the Government under the chairmanship of Mr. Justice J. Kenny of the High Court to consider, in the interests of the common good, possible measures for:

perusal of the cited legislation.

[22] Berna Grist, *Twenty Years of Planning : a review of the system since 1963* (Dublin, 1983), 40.

- controlling the price of land required for urban development, and
- securing a substantial part of the increase in the value of serviced land for the benefit of the community.

The Kenny Report,[23] published in 1974, recommended that a 'designated area' scheme be introduced, whereby local authorities would have to identify areas for development over a ten year period, based on the availability of roads, water supply and drainage (that is, works carried out by the local authority which would increase the market price of the land). Application would then be made to the High Court to designate such areas. When designated, the local authority would be empowered to buy land in the designated area, if necessary by compulsory purchase order, at existing use value plus 25%. Within such areas, landowners could apply for planning permission in the normal way, but permission could be refused on the grounds that the local authority intended to acquire the land within the designation period. The landowner could then force the local authority to buy the land at the designation price.

The Government accepted the report in principle and promised implementing legislation but the Kenny Report has been left firmly on the shelf.

Conclusion

The local autonomy provided by the 1963 Planning Act, instead of giving roots to a flourishing local democracy, has enabled local elected representatives to abuse the role given to them in the making of development plans, a process intended to capture the benefits of development in the interests of the common good. Much criticism has been made of the British Public Inquiry system of development plans. In terms of proper scrutiny and openness, it has a lot to offer. This article has demonstrated that, prior to adoption, all development plans should be subject to transparent review by an independent body. The alternative would be to implement the Kenny Report mechanism but that requires a greater level of commitment to reform and is less likely to be politically acceptable.

The automatic penalty of electoral disqualification is one of the strengths of the Ethics in Public Office Acts. Following the conviction of the Killarney Town Councillor and his enforced resignation, it is unlikely that any other

[23] Committee on the Price of Building Land, *Report to the Minister for Local Government* (Dublin, 1973).

local politicians would attempt to chance acting in defiance of their ethical obligations under this legislation. Continuance in office and re-election is the overarching objective of the politician and if there is no possibility of judicial discretion being exercised favourably, this is a powerful disincentive to risk-taking that has such serious consequences. However, there will always be a temptation to act in self-interest where the stakes are high and the financial rewards significant. The best security for the public is a strong regulatory framework with clear obligations on politicians to act in the interests of the common good, minimal opportunities to engage in the type of opinion-based and flexible decision-making which allows for political patronage and severe sanctions in cases of proven transgression. This applies equally to the discharge of functions under the Planning Acts, such as zoning, where the considerations underpinning the decision may be based on clientelism, patronage and the securing of future electoral support in the form of votes or donations.

The Killarney case also reveals what can only be described as a non-interventionist approach by the Ethics Officer, which is likely to have been replicated elsewhere. This official provided the elected councillors with the relevant information as required by law and checked the declaration of interest forms returned. However, despite the national awareness of planning corruption flowing from the Tribunal of Inquiry sitting in Dublin Castle for over seven years, he appears to have had no procedures in place for monitoring observance at Council Meetings or for providing direction and guidance to the staff on how to handle potential breaches of the legislation at an early stage. In correspondence with the Standards in Public Office Commission, the Ethics Officer indicated that the possible contravention of the Ethics Acts only came to his notice by way of two newspaper articles. In an area of activity with such capacity for corruption as the planning process, it might be expected that the official charged with observance of the ethics code would adopt a pro-active approach to this function.

Of course, there is a very real difficulty for employees of local authorities who have dealt with the same council members over many years, who have an ongoing working relationship with them and who possibly live within the one local community. Such familiarity can creep across the boundary of probity into cosy cronyism without it being realised by even the most careful official and ethical politician until it is too late. Patterns of accommodating behaviour, once formed, are very difficult to break. Most councillors are re-elected on more than one occasion and many have decades of continuous membership

of their local authority, which can put them in an unduly powerful position with regard to the officials. Local elections are held every five years and consideration could be given to imposing a statutory limitation on the number of five year terms which an individual politician can serve. It is suggested that two or, at the most, three consecutive terms would be an appropriate timeframe.

The Planning and Development (Amendment) Bill 2009 was published on 3 June 2009.[24] The 2000 Act had failed to set out the procedure whereby a development plan is to be varied in compliance with a s.31 Ministerial direction. That defect has now been addressed. However, despite the obvious need for a formal review procedure of development plans by an independent authority, a complex minefield of what are described as 'evidence based' reports and Ministerial consultations is proposed. This particular nettle has not been grasped yet.

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[24] This Bill was signed into law on 26 July 2010, becoming the Planning and Development (Amendment) Act, 2010. The provisions for supervision of plan making activities at local level remain substantially as contained in the 2009 Bill.