



CFAT

Commercial Feasibility Assessment Team



How Good is Your Permission?

During the boom times there were many developments which received grants of planning permission in areas which had serious infrastructure deficiencies.

The developers in their planning submissions had acknowledged these deficiencies and in most cases made provision to overcome them. A typical example would be in waste

own independent treatment system to service their development. These systems range in cost but can generally be expected to run towards €500,000. They also carry the burden of ongoing

that development could not be commenced or occupied until their treatment system upgrade was completed. Some treatment systems have still to be upgraded therefore preventing the occupation of development. This same situation occurred in water supply and roads infrastructure.

Beware of the planning conditions and what you actually have permission for. There may be very significant expense involved in providing the necessary infrastructure to allow the development to proceed and in some cases it may not be able to proceed at all until public infrastructure upgrade works are completed by the Local Authority.

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water treatment where most towns and villages on the outskirts of Dublin would have expanded rapidly and quickly overloaded the existing waste water treatment facilities. In order to overcome the issue of waste water treatment developers proposed their

maintenance costs. Details of these treatment systems were submitted and agreed with the planning authority during the planning process. In other cases the Local Authority had plans to improve their existing treatment facilities and conditioned permissions

Planning Policy and Access to National and Secondary Roads

Several Government statements on planning policy and national roads have been produced over the last number of years such as the ‘Development Control Advice and Guidelines’ (1982), the more comprehensive ‘Policy and Planning Framework for

following consideration of any submissions / comments received during the consultation process, they will have statutory effect under section 28 of the Planning and Development Act 2000. The guidelines will seek to guide development to the

engagement and dialogue between the NRA and planning authorities in respect of developing suitable policies and objectives for managing development within the wider context of the national road network and functions.

“ **The preparation of these guidelines is designed to encourage, in line with international best practice, efficient transport planning.** ”

Roads’ (1985) and the National Roads Authority’s ‘Policy Statement on Development Management and Access to National Roads’ (2006). Currently the Department of the Environment, Heritage and Local Government and the Department of Transport, with the National Roads Authority, are preparing to publish, for public consultation, guidelines on planning policy and roads. When the guidelines are finalised,

most appropriate locations by ensuring transport and land use planning considerations are taken into account at the development plan stage. The preparation of these guidelines is designed to encourage, in line with international best practice, efficient transport planning which will underline a shift towards more sustainable forms of travel and transport.

Furthermore, the guidelines highlight the need for early

The DOEHLG / DoT are expected to publish the guidelines shortly as a public consultation draft. All stakeholders, including local authorities, business groups, chambers of commerce, and others who are interested in this issue should examine these draft guidelines and make submissions once they are issued.

Arbitration Act 2010: What does it mean?

All Arbitrations commenced after the 8th June 2010 will now be governed by the Arbitration Act 2010. The purpose of the act is to incorporate the UNCITRAL

Model Law on International Commercial Arbitration (Model Law) and shows the support of the Government and the Judiciary for the Arbitration process.

Significant new aspects of Arbitration law include (i) the abolishment of the case stated which means that Arbitrators will no longer be able to refer questions of law to the Courts, (ii) limitations to the grounds for challenging an award making it far more difficult to have an award set aside or

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remitted and (iii) the arbitrator is now required to provide reasoned awards.

Arbitrations are likely to be the more sought after

methods of dispute resolution in the current climate given the privacy they provide and the speed and finality of the process. The new legislation however will mean that parties

should ensure they choose an arbitrator who is an expert in his field as there is very little recourse now if he gets it wrong!

OVERVIEW OF WATER FRAMEWORK DIRECTIVE

For the first time in land use planning in Ireland, Environmental Capacity (the ability of the environment to accept wastewater discharge or to supply drinking water) has become a statutory requirement. The WFD will mean that areas of the country with a water environment which is already 'at risk' will no longer have the capacity to support development.

Prior to the WFD the question was 'does this site have a sewer connection or water supply connection?' Now, the question is 'does the water environment have the capacity to support this development?' and is it already 'at risk'? This means that existing abstraction or wastewater discharge rates would need to be reduced

and increased abstraction would not be permitted. Before the WFD we looked at development by focusing on the site and looking 'down the water or wastewater pipe' as an after thought. Now, land use planning will have to start by concentrating on the receiving river, lake or groundwater setting the

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framework and limits for development. We will have to look 'back up the pipe', to see what the water environment allows us to do with the landbank or area in question.

For the first time in Ireland, water quality objectives will form an integral part of statutory land use and development planning. On adoption of WFD RBD Management Plans, development simply may not be permitted on certain land banks or in areas where the receiving water environment

does not have the capacity to accept discharges. This may lead to de-zoning of land, or a reduction in occupation densities.

CONSTRUCTION COST TENDER LEVELS

Since the peak of construction activity in 2007 Kerrigan Sheanon Newman (KSN) have experienced huge reductions in tender levels up to the spring of 2010. Highly competitive tendering and in cases below cost tendering has brought remarkable value to the market and to clients interested in proceeding with any type of construction work. The Society Of Chartered Surveyors registered tender price indices have confirmed construction tender levels have reduced by 29% from early 2007 to the end of 2009. Within KSN we have experienced on certain types of construction activities and building types even higher levels of reductions.

All these have been fuelled by the dramatic reduction

in construction output and employment levels. Turnover in the sector peaked in 2007 at €38 billion and has now reduced to €19 billion for 2009. As the majority of large capital spend projects such as Lansdowne Road Aviva Stadium, National Conference Centre and the roads infrastructure projects have now been completed or are nearing completion the 2010 projection for sector turnover shall be in the region of €10 billion. We therefore await the nett affect of this on tender levels.

Going forward in the construction sector we have not seen such value being achieved since the late 1990's and with labour in plentiful supply program dates are

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being achieved well within deadlines set. The availability of highly qualified professionals and skilled operatives is at its highest for a long number of years as can be seen in the labour market. Employment levels in construction rose to almost 400,000 in 2007 and it is estimated almost 260,000 people have been made redundant to date.

In stating all the above the construction sector has proven to be adaptable and with companies down sizing and providing a lot more value it is an opportune time to build.



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About CFAT

WHO?

A group of individual organisations who have pooled their resources and market know how.

WHY?

The property market needs a 'one stop shop' with experts in valuation, planning, traffic, environment, costing and architecture.

WHAT?

Because we advise the biggest and most successful clients. As a group we deliver, tailored, no nonsense advice to help you achieve your targets.

BENEFITS OF CFAT:

- Each team member has in-depth experience of the commercial property world.
- Each member is an expert in their own field.
- Limited conflict of interest.
- The ability to help deliver viable schemes because we know what the end operator needs.

OUR SERVICES:

- Reviewing current land use/zoning and making recommendations.
- Recommendations on site value enhancement.
- Certification for live projects.
- Reviewing current planning consents and assessing viability.
- Fully costed and commercially viable schemes for sites.
- Planning compliance.

Meet The CFAT Team

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