

The Planning Bill 2019 and why it matters to you

What is the proposed Bill?

If passed, the Housing and Planning and Development Bill 2019 will drastically reduce the ability of ordinary people and environmental NGOs to legally challenge any problematic planning decision with environmental implications. In a doff of the cap to developers, the bill seeks to radically limit citizens' ability to exercise their legal right to access justice to protect their environment and communities.

Currently, flawed planning decisions can be challenged in court by means of a judicial review. The amendments proposed in the bill seriously restrict the rules around which members of the public may take a legal challenge, and place arbitrary and restrictive thresholds on which organisations qualify as environmental NGOs. The amendments would also significantly increase the financial exposure for qualifying members of the public and environmental NGOs who wish to take a legal challenge. Essentially, they are reducing the number of people and organisations who can take legal challenges, and for those who pass that hurdle, they are making it much more financially risky.

Specific ways in which the bill will shut out the public voice

3 years: *The minimum time that a group must be in existence before it can challenge a planning decision has been extended from 12 months to 3 years.*

- This would stop recently established environmental NGOs from bringing legal challenges. This is particularly concerning for local, citizen-led groups who may have only recently formed due to potentially controversial developments that were granted planning permission in their area.

100 members: *A requirement that NGOs must have a minimum of 100 members to take a legal challenge.*

- A handful of environmental NGOs are currently able to take legal challenges and act as watchdogs through the court system, such as Friends of the Irish Environment and An Taisce. However, this proposal would exploit a capacity issue at most NGOs and would rule out the vast majority of Irish environmental groups, at local and national levels, from bringing legal challenges. Crucially, this would also hamstring smaller community groups.

Substantial interest: *A change in the requirement for judicial review applicants from having "sufficient interest" in the development to a "substantial interest."*

- Would-be challengers would now have to prove that the development impacts them directly, and in a personal and peculiar way, a much stricter requirement than "sufficient interest."

Higher costs: *Proposed new legal cost rules could make it prohibitively expensive to take a case.*

- The bill would expose people and groups to much higher costs if they lose in court, and also significant uncertainty on legal costs from the start. It would also make it much more difficult to hire lawyers on a 'no foal no fee basis', as they are unlikely to be able to recoup their full fees even if they win. Local communities, individuals, and NGOs do not have the resources to make up the difference.

HOW TO HAVE YOUR SAY

The bill is now open for public consultation. We urge you to write a letter outlining why you oppose these proposed changes, as outlined above, **by 5pm on Monday 27th January 2020.**

Send by email to:

planning@housing.gov.ie

Be sure to include the subject line:

'Housing and Planning and
Development Bill 2019'

Send by post to:

Housing and Planning and Development Bill 2019 Submissions,
Planning Policy and Legislation Section,
Department of Housing, Planning and Local Government,
Custom House, Dublin, D01 W6X0

An Taisce can help!

An Taisce would be more than happy to answer your questions or advise you on any aspect of your letter. Please don't hesitate to contact us at planning@antaisce.org or on 01 454 1786.

This Bill is an erosion of our democratic rights, and poses a very serious and significant threat to public participation in the Irish planning process. Stand up for your right to access justice and add your voice to the consultation.