An Taisce 75 YEARS 1948-2023
The National Trust for Ireland

Sustainable and Compact Settlements Guidelines Consultation
National, Regional and Urban Planning Section
Department of Housing, Local Government and Heritage
Custom House
Dublin 1

Sent by email to: nrupconsultation@housing.gov.ie

5th October 2023

Re: Draft Sustainable and Compact Settlement Guidelines for Planning Authorities

An Taisce welcomes the opportunity to comment on the consultation on the Draft Sustainable and Compact Settlement Guidelines and wishes to make the following submission.

1. Preliminary Considerations on Status of the Guidelines

Per section 1.1 of the Draft, the guidelines are to be issued under s.28(1C) of the Planning and Development Act 2000 (as amended) with the effect that all Planning Authorities and An Bord Pleanála will be required to apply specific planning policy requirements (SPPRs) contained therein:

> "*Section 28 provides that planning authorities and An Bord Pleanála shall have regard to Ministerial Guidelines and shall apply any specific planning policy requirements (SPPRs) of the Guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended), in the performance of their functions.*"

It is of significant concern to An Taisce that the effect of this is to override the democratically adopted local development plans, area plans and planning schemes. This continues the trend of centralising power with the Minister and weakening local democracy.

We consider that there is very much a place for national level planning policy and guidance, particularly around compact settlement creation. However, the introduction of mandatory guidance and SPPRs has created very well documented conflicts when proposals are permitted to materially contravene Development Plans policies on foot of that mandatory guidance. The Draft Guidelines' focus on promoting a plan-led approach is welcome, but weakened in practice by the opportunities left open for material contravention and the increased discretion given to "project proposers".

Additionally, the Draft Guidelines should be considered in the context of Draft Planning and Development Bill 2022. While the revised version of the bill (approved by Cabinet on 3rd October) has not yet been published at the time of writing, the draft bill published in January

of this year gave significantly increased power to the current s.28 guidelines, which are to be renamed National Planning Statements. If the provisions in the draft bill remain, there will be much stricter requirements for county and local level plans to be rapidly amended to align with the National Planning Statements, eroding the democratically-made local plans. There is also a provision in the January version of the draft bill for the current s.28 guidelines to continue without limitation. As the development of these Draft Guidelines and the new planning legislation are proceeding simultaneously, we consider that more information should be provided on how it is intended for the guidelines and specific planning policy requirements to be treated in the context of the new Planning Act.

2. Compact Settlement and the Implementation Gap

The pattern of low-density suburban car-based sprawl which has characterised much of the development of the last number of decades is unsustainable. An Taisce therefore welcomes and supports the emphasis in the Draft Guidelines on providing better designed and higher density urban areas and neighbourhoods with active and public transport connectivity to services, employment and amenities. It is essential that we create communities of a high urban design standard that provide high quality affordable housing options, easy access to essential services, a high-quality public realm while breaking dependence on private car journeys and addressing our emissions reduction obligations. However, we are concerned that the Draft Guidelines will not sufficiently address the large implementation gap between the strong ambitions of compact settlement policies and their realisation on the ground.

Successive national spatial strategies have sought to achieve balanced regional development and compact settlement patterns. Yet the defining pattern of settlement development has still generally been of a sprawling, uncoordinated nature where land has been developed in a 'leapfrog', low-density pattern. This type of land use has diminished the liveability of areas, created places that lack adequate public facilities, and generated car dependency for long commutes.

Despite the now widely recognised need to reduce car dependence as part of our efforts to address the climate and biodiversity crises, there is an ongoing systemic failure to ensure that new housing developments are actually linked to safe cycling and walking routes to schools, local services, employment centres, recreation areas, and enhanced public transport in the satellite commuter housing areas. This renders these areas unsafe for walking and cycling to schools, local services and amenities. Residential schemes often include strong walking and cycling permeability within the boundary of the site itself, but they are frequently located on the fringes of cities and towns at a significant remove from existing transport links or services (grocery stores, health facilities, etc.). They are also often sited in areas with very limited existing public transport routes and capacity or pedestrian and cycling infrastructure. Therefore, although a new residential development may provide high quality foot and cycle permeability around the dwellings, these often terminate immediately outside the site boundary, thereby discouraging residents from using active travel modes outside of the development itself and thereby increasing car dependence.

Furthermore, despite the abundance of national, regional and local policies stipulating that all new development should promote compact settlement and have easy access to transport links as well as safe walking and cycling routes, large residential applications are rarely, if ever, refused on the basis of not having these elements.

To actually realise compact settlement policies on the ground, it is submitted that no new housing development should be permissible where it is greater than a 15-minute walking distance from basic services and infrastructure e.g. public transport services with adequate capacity, supermarkets, childcare facilities, schools, post offices, medical facilities, recreational facilities, high quality green and open spaces, etc., and active and public transport infrastructure must be in place in and around the development, linking it to services, employment centres and other neighbourhoods. Regional and local plans should be charged with determining such services and locations, and where there is a deficit, they must be upgraded in tandem with housing development. These simple principles, rigorously enforced, are possible and would go furthest in achieving the objectives of smart, compact growth.

3. Recommendations on Proposed Policies

3.1 Addressing the Implementation Gap

An Taisce submits that the Draft Guidelines will not sufficiently address the implementation gap as discussed above. Despite their very welcome focus on the principles of sustainable and compact settlement, we do not believe they will be sufficient to prevent further growth of disconnected, car-dependent development.

As one measure to help close that gap, An Taisce recommends that the Guidelines incorporate and enhance the seven location test standards for new housing outlined in the National Spatial Strategy 2002, the precursor to the National Planning Framework (see chart below). These standards require that planning authority decisions for new housing developments be conditional on integration with existing communities, affordability and mix of housing types, walking and cycling access to local services and schools, transport access to employment locations, and availability of recreation facilities.

	Evaluation Considerations
The Asset Test	Are there existing community resources such as schools, etc. with spare capacity?
The Carrying Capacity Test	Is the environmental setting capable of absorbing development in terms of drainage, etc.?
The Transport Test	Is there potential for reinforcing usage of public transport, walking and cycling?
The Economic Development Test	Is there potential to ensure integration between the location of housing and employment?
The Character Test	Will the proposal reinforce a sense of place and character?
The Community Test	Will the proposal reinforce the integrity and vitality of the local community and services that can be provided?
The Integration Test	Will the proposal aid an integrated approach to catering for the housing needs of all sections of society?

These standards should be updated and strengthened for 2023 so they facilitate the 15-minute settlement concept.

3.2 Defining Density Ranges – Spatially and Visually

As discussed above, An Taisce considers that higher densities are a key part of the shift to sustainable and compact settlement patterns. The expanded range of housing typologies is very welcome, provided they are accompanied by high quality place-making and urban design. We would caution, however, that densities at the high end of the ranges (200 dph and above) must be utilised very carefully as they are not suitable for all areas, even within the zones where they are theoretically permitted per Sections 3.2.2 and 3.3 of the Draft Guidelines.

Crucially, we submit that mapping is needed to more clearly delineate the areas in which the proposed densities may be applied per the Guidelines' policies. We consider that the written descriptions and definitions provided in Section 3.2.2, 3.3, etc. are not adequate to establish the areas to which each range is best suited and may be applied.

Similarly, it is noted that some illustrations are provided on examples of housing typologies in most of the proposed density ranges (see Figure 3.3 and Appendix E). However, the highest range illustrated is 200+ dph which is very broad. We consider that more typology visualisations are needed, particularly at the high end of the density ranges (250 dph, 300 dph, etc.).

3.3 Specific Planning Policy Requirements

See Section 1 of this submission for comments on the risks and problems associated with SPPRs in the broad sense.

In general, we consider that these SPPRs leave too much to the discretion of the developer by restricting the standards that planning authorities can set in their own development plans. This runs counter to the plan-led approach.

SPPR 1 on separation distances does not appear to take building height into account. As drafted, the proposed 16m separation distance above ground floor level applies regardless of building height. This presents serious issues in terms of residential amenity, day light, privacy, etc., particularly where multi-story buildings are involved. We are also very concerned that this SPPR prevents planning authorities from setting any minimum separation distances at the ground floor level.

Any decrease in separation distances and private open space must be accompanied by strict and high standards for the design quality of both the dwellings themselves and the surrounding public realm, bearing in mind that in practice it is generally the minimum standards which are adopted. The impacts of reduced private outdoor space and separation distances should also be fully evaluated in the Strategic Environmental Assessment (SEA), including under human health.

Regarding public open space, SPPR 3(i) states:

> *"(i) It is a specific planning policy requirement of these Guidelines that proposals for new residential development include areas of functional public open space that collectively equate to not less than 10% (minimum) of the net site area. Statutory development plans shall not include objective(s) in respect of minimum public open space requirements that exceed 10% save in the case of a historic setting as detailed in subsection (ii) below."*

We consider that limiting development plan objectives to a blanket maximum of 10% public open space provision (except in cases of historic settings) is overly restrictive and does not allow for the local authority to exercise its role in local place-making.

The SPPRs, while being very restrictive on planning authority decisions on the quantum of open space, are not particularly prescriptive about the quality of that space. Again, it must be born in mind it is generally the minimum standards which are adopted in practice. High quality open space design ensures the provision of, for example, passive surveillance from surrounding dwellings/buildings for public safety, diverse recreational opportunities for all ages and abilities, and green and blue infrastructure that supports and enhances biodiversity – not simply token areas of monocultured grass.

3.4 Density in Historic Centres

It is also of great importance to recognise and acknowledge that historic urban centres are an irreplaceable social, cultural and economic assets, which should not be compromised by achieving high densities through excessive high-rise development. We note that higher densities do already exist in historic quarters – Dublin's Mount Joy Square North, for example, has a density of approximately 170 uph. New higher density development in historic cores is very possible while remaining in keeping with the character of historic streetscapes and skylines. We would refer the Department to An Taisce's submission on the 2018 Building Height Guidelines for more detail.[1]

We also note that a significant increase in densities could be achieved by addressing the vacancy rate of properties in virtually every town and city in the country and that this should be addressed as a priority in the guidance. Adaptive reuse, particularly of heritage buildings, is also key.

It should be ensured that the SEA properly evaluates the factors which are relevant to architectural heritage, per the requirements of Article 5(1) and Annex 1 of the SEA Directive (see Section 4 of this submission). This would include the impact of new higher density development on the quality, scale, character and coherence of historic urban areas.

4. Strategic Environmental Assessment Requirements

The Department has a legal obligation to ensure that the Strategic Environmental Assessment (SEA) process is robust, effective, and identifies all likely significant effects on the environment under the range of considerations set out in the Annexes to the SEA Directive. It needs to demonstrate exemplary engagement and compliance with the provisions of the Directive and address the 2001 Guidance provided by the Commission: "Implementation of Directive 2001/42 on the Assessment of the Effects of Certain Plans and Programmes on the Environment".[2]

We would highlight Article 5(1) of the Directive, which requires that:

> *"Where an environmental assessment is required under Article 3(1), an environmental report shall be prepared in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme, are identified, described and evaluated. The information to be given for this purpose is referred to in Annex I"*

The provisions of Annex I are significant and detailed:

[1] https://www.antaisce.org/building-height-guidelines-2018-consultation
[2] http://ec.europa.eu/environment/archives/eia/pdf/030923_sea_guidance.pdf

Information referred to in Article 5(1)

The information to be provided under Article 5(1), subject to Article 5(2) and (3), is the following:

(a) an outline of the contents, main objectives of the plan or programme and relationship with other relevant plans and programmes;
(b) the relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan or programme;
(c) the environmental characteristics of areas likely to be significantly affected;
(d) any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Directives 79/409/EEC and 92/43/EEC;
(e) the environmental protection objectives, established at international, Community or Member State level, which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation;
(f) the likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors;
(g) the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme;
(h) an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;
(i) a description of the measures envisaged concerning monitoring in accordance with Article 10.
(j) a non-technical summary of the information provided under the above headings.

We would also highlight Article 10, which sets out the provisions for the monitoring of a plan or programme subject to SEA and the obligation for remedial action where unforeseen adverse effects arise:

1.Member States shall monitor the significant environmental effects of the implementation of plans and programmes in order, inter alia, to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action.

2. In order to comply with paragraph 1, existing monitoring arrangements may be used if appropriate, with a view to avoiding duplication of monitoring.

The provisions of Article 10 are not just for monitoring but, notably, for the remediation of unforeseen adverse effects. Section 8.12 of the 2001 European Commission guidance states that:

> *"Unforeseen adverse effects is better interpreted as referring to shortcomings of the prognostic statements in the environmental report (e.g. regarding the predicted intensity of the environmental effect) or unforeseen effects resulting from change of circumstances."*

The Department must ensure that monitoring of significant environmental effects is carried out once the Guidelines are in force and that any unforeseen adverse impacts that arise are remediated.

Please acknowledge our submission and advise us of any further consultation periods.

Yours sincerely,

Phoebe Duvall
Senior Planning and Environmental Policy Officer
An Taisce – The National Trust for Ireland