

Formal Institutions in Irish Planning: Europeanization Before and after the Celtic Tiger

Master's Thesis

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Abstract

Many economies throughout the world were devastated by the global financial crisis of 2007-2008. Ireland in particular experienced a severe collapse in its housing market. Despite the progression of European-influenced planning policy that was meant to promote balanced regional development in Ireland, the country's housing market vastly overbuilt, exacerbating a housing market crash that ended the Celtic Tiger era. Drawing on *Europeanization* and *historical institutionalism* as theoretical frameworks, this thesis argues that the link between these EU-influenced policy principles and local Irish planning practice was weak during an important phase of Ireland's economic growth. This conclusion is demonstrated through the analysis of a case study, *McEvoy and Smith v. Meath County Council*. The findings show that while Ireland's national government created an ambitious National Spatial Strategy modeled on EU principles, non-binding Regional Planning Guidelines allowed local authorities to continue granting zoning changes and permissions. These decisions were therefore uninhibited by the constraints of population projections, consideration for infrastructure provision, and overall good planning practice. This research calls into question the effectiveness of transferring policy principles from the EU to Member States. It suggests more generally that to implement policy and law successfully, policy makers must appreciate the societal and economic context in which these rules will operate.

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1. Introduction

1.1 Outline

European spatial planning as a field of study has provided many new avenues of research into the nature of planning institutions. As the European Union has evolved, its influence has spread into numerous fields that were once the purview of national governments. In tandem, academic study of the way in which the EU exerts influence on Member States has also grown. *Europeanization* as a theoretical framework has emerged as a popular way to analyze this change, which attempts to break down the diffusion of EU policy into measurable steps. In recent years, policy statements like the European Spatial Development Perspective (ESDP) have made clear the types of governance that the EU wishes to see its Member States adopt in fields such as spatial planning.

At the core of European spatial planning is the use of the region as a geographic entity. This is partly because spatial planning aims to take a wider strategic view of economic development as an issue that crosses national borders. Regions offer a useful level of governance above the local authority level, while also playing down the significance of national borders. As EU policy generally attempts to integrate countries with historically divergent cultures and interests, regions help to propel the importance of looking at spatial development in a wider context beyond local issues. This is a view espoused in the ESDP, which aims to achieve this balanced regional development by fostering economic and social cohesion.

For Ireland, regional level policy has a history that predates the ESDP, but is nevertheless grounded in the evolution of EU policies and programs over the last 50 years. The history of this evolution as it relates to Irish regional development will form the basis of the policy review in this paper. This review will focus on the National Spatial Strategy of 2002, which was, “a coherent planning framework for the next 20 years” (Department of the Environment, Heritage & Local Government, 2008). The National Spatial Strategy (NSS) was the first national-level policy document in Ireland to integrate spatial planning concepts of regional cooperation, polycentric development, and integration of urban-rural relations as guiding principles. Its stated aim was to, “achieve a better balance of social, economic and physical development across Ireland, supported by more effective planning” (Department of the Environment, Heritage & Local Government, 2008).

While not explicitly stated in the National Spatial Strategy, it's clearly informed by concepts derived from the ESDP. Using guiding principles of the ESDP, the NSS set out three goals. The first was to address the sprawl occurring in and around the city of Dublin. Second, a number of smaller cities and towns were identified as ‘gateways’ and ‘hubs’ that could serve as focal points for future growth and provide critical mass where government investments could be deployed. Third, all of these initiatives were created with a view toward sustainable development, capitalizing on the economic growth that had driven Ireland since the early 1990’s.

The National Spatial Strategy was written during an important period in Ireland’s history. Having experienced a full decade of high economic growth, the country needed to consolidate its tremendous gains from the 1990’s. Ireland had surprised many observers,

and was dubbed the Celtic Tiger by those who favorably compared its annual double-digit GDP growth to the East Asian 'Tiger' countries and their periods of rapid growth in the late 1980s and early 1990s.

The Celtic Tiger era witnessed a remarkable turn around in the Irish economy, outpacing other European nations for years at a time. Over this period, housing development flourished across the Irish countryside as developers and everyday citizens alike sought to profit from the now thriving sector. In the early 2000's, construction quickly caught up with the demand for housing, but continued at a frantic pace. Soon, the number of homes being built outpaced demand. Beginning in 2007, house prices began to decline. With the onset of the global financial crisis, average house prices in Ireland plummeted, dropping a full 40 to 50 percent in some areas.

While many factors helped create the housing crisis in Ireland—national banks have been widely criticized—planning policy is one area that has received less attention. The creation of the National Spatial Strategy and regional planning authorities was meant to guide sustainable, balanced development across Ireland and form a cohesive policy framework. Yet the country vastly overbuilt, leaving 620 'ghost estates' scattered across the country immediately after the crisis (a ghost estate can be defined as a development of 10 or more houses where 50% of the properties are vacant or unfinished) (Kitchin et al., 2010). This leads to the question: has the Europeanization of planning laws and rules in Ireland had any effect on the stated goal of creating balanced development? And, if the National Spatial Strategy and other regional planning policies are meant to guide growth, why did they not have a discernable effect in limiting the overbuilding that preceded the

housing crisis?

There exists an opportunity to study and analyze, through the lens of *historical institutionalism*, the evolution of the formal institutions—policies, laws, and legislative structure—that together make up Ireland’s formal planning system. The introduction of the National Spatial Strategy marked a high point in the Europeanization of planning laws in Ireland, and new agencies and policy documents were either created or strengthened to support its implementation. The regional level of policy and governance in particular was relatively new, and was meant to bridge the policy gap between national and local authorities.

Of primary interest for this thesis is how the formal institutions of planning in Ireland—the regional levels of planning policy and national spatial planning concepts—were developed up to and during the Celtic Tiger era, and how they changed after the housing crisis occurred. This thesis seeks to understand the degree and strength with which spatial planning laws and rules (formal institutions) were created and implemented, and whether these new formal institutions were able to counterbalance the informal institutions of Ireland: the ‘ways of doing things’ and practices that have developed over time that are steeped in the culture, traditions, and routines of planning in Ireland.

1.2 Problem Formulation

To frame this investigation, two theoretical concepts will be employed. First, Europeanization will be used to address how European Union initiatives and policies affected the growth of regional policy in Ireland. Second, the concept of path dependency as constructed in historical institutionalism will help address how policy and other formal institutions have developed over time in the planning system in Ireland. In particular, a distinction between formal and informal institutions will be employed to help sharpen the understanding of policy evolution over time.

Due to the complex nature of describing the evolution of policy in any given country, the Irish case will first be given an explanatory background. A general description will be provided of government and the planning system in the Republic of Ireland to give a context with which policy development can be judged.

This thesis will then address its topic in three parts. First, the growth of regional policy in Ireland is studied. Second, the state of regional planning policy during the Celtic Tiger era is analyzed via a case study that will provide a snapshot of policy implementation during that period. This section will be preceded by a short summary of the Celtic Tiger era and the housing crisis that followed. Finally, key legislative changes to Irish planning law that resulted following the housing crisis are analyzed to provide a picture of a potential new path for Irish regional planning policy.

1.3 Method

This thesis began as a study of the evolutionary path of regional policy in Ireland, with particular emphasis being given to understanding the relationship between the formal and informal institutions of the Irish planning system. The research process for this thesis was inductive, in that a specific event – the Irish housing crisis – triggered an exploratory search of its causes and possible relation to the Irish planning system. Empirical evidence in this case included: national, regional, and local plans; working papers, academic research and analysis; secondary interviews and focus groups of those who work in and around the Irish planning system; and, minutes taken from oral debates in Irish Parliament relating to the subject matter. Once data and evidence had been procured, a pattern emerged that implicated the regional level of planning policy as a relevant and interesting topic. From here, different theoretical frameworks were tested. The argument for these choices will be provided in Chapter 3.

The case study approach was chosen to focus on the path of Irish regional policy because it enables an analysis to, “hold policy account in terms of the complex realities of implementation and the unintended consequences of policy action” (Somekh & Lewin, 2005). Case studies are often meant to be an inductive process, where an observation is made, patterns are found, and a theory is then created or applied. The strength of a case study is that it can take an example of an activity or institution and, “use multiple methods and data sources to explore it and interrogate it” (Somekh & Lewin, 2005). This is an important aspect of this thesis, as it will allow the research to consider a wide breadth of issues surrounding regional policy and the Irish housing crisis. This can better inform the following discussion on the effect that the housing crisis has had on the

evolution of regional policy in Ireland.

One issue with regard to the case study method should be made clear for this thesis: while the thesis itself is a case study on the evolution of Irish regional policy, it also contains a specific case study on the High Court case *McEvoy and Smith v Meath County Council*. While the purpose of the case study method is inductive, this thesis does not seek to imply that the overall findings are easily generalized. This is often found to be the case with inductive reasoning; it is descriptive and ultimately heuristic: it seeks to ‘illuminate’ the readers’ understanding of an issue (Somekh & Lewin, 2005).

It should be said however, that the case study of *McEvoy and Smith v Meath County Council* is meant to allow for some generalization, as it provides a specific reference point that illuminates more general issues of a policy process across the nation of Ireland. The *McEvoy* case is intended to be a real-world acknowledgement of how regional policy at this point in time is interpreted and implemented. Thus, *McEvoy* provides the grounding for critical observation, as:

a vertical ‘core’ [that] can be taken through ‘the system’ from central policy-maker, to local authority interpretation of policy, to local implementation and mediation, asking questions at each level of the system of where this policy has come from as well as where it is going (Somekh & Lewin, 2005).

The drawback of a case study however, is that it is not easy to make statistical generalizations from a single unit case study to populations as a whole. As Somekh points out, good case studies can appeal to a readers ‘naturalistic generalization’; that is,

readers will recognize aspects of their own experience and intuitively make generalizations, rather than saying that the sample case is statistically representative. This suits the nature of studying a case in the field of spatial planning, where the nature of spatial planning policy and praxis is rooted in a nation's culture, history, and path, making it inherently local and not overly prone to generalization. The focus on locale is reflected in recent literature on regional policy and spatial planning, and is viewed as part of the nature of such a discourse. For this case, the nation of Ireland will be the physical boundary that defines the scope of the study.

1.4 Limitations

The Irish housing crisis and subsequent criticism of the planning system has been covered in many newspaper articles and other popular media. Outside of this realm, academic circles have given this subject little attention considering its relevance. Part of this is due to the contemporary nature of the topic: the developments are ongoing, and as such it can be difficult to analyze *ex post facto* (after the fact). However, a number of reports have recently been published by government agencies that address legislative reforms and ways to deal with the fallout of the housing crisis, including strategies to manage the oversupply of housing estates, known as 'ghost estates'. While these are no doubt useful and relevant, they do not provide academic analysis of the past, present, and future. Therefore, the academic papers that do deal with the housing crisis and its relation to planning policy will be relied upon to provide a basis for discourse.

1.5 A word on sources

Sources for this thesis are generally a mix of policy documents from the national, regional, and local levels of Irish government as well as academic papers that focus on different aspects of the development of regional policy. These academic works look at regional policy through many different lenses. While some focus on the housing supply angle of regional policy, others focus on the connection with the European Union and Structural Funds and so on.

2. Government in Ireland

2.1 Overview

Ireland's history in the 20th century can be described as tumultuous, and this past is reflected in its government structure. In the last century, the Republic of Ireland has gone from a subject of the United Kingdom, to a self-governing British dominion, to a fully independent republic. During its gradual separation from England in the first half of the 20th Century, the current Constitution of Ireland — adopted in 1937 — was written after two previous Constitutions, formally vesting legislative powers to the Irish national parliament known as the Oireachtas.

Ireland's national parliament structure is in the vein of traditional liberal democracies. The parliament consists of a President of Ireland and two elected houses known as the Dáil Éireann (the House of Representatives) and Seanad Éireann (the Senate). The primary power of the three branches resides with the House of Representatives, allowing

it exclusive ability to pass laws, amend the Constitution, and remove the President (Houses of the Oireachtas, 2012). The House of Representatives is also the only body directly elected via universal suffrage under a system of proportional representation (O'Connor, 2007).

Ireland's system of governance is strongly centralized. This tradition dates back to the Normans that settled in Ireland in 1169, who created the legal system, laws, and courts that are the basis for the modern incarnation in use today. The legislature of Ireland is similarly descended from a parliament that dates back to the medieval period (Houses of the Oireachtas, 2012a). When compared with its European counterparts, Ireland's high degree of centralization makes it unique, as does its corresponding local governments which have a low level of autonomy. Prior to its involvement with the European Community, Ireland was made up of two levels of government, with central government retaining all of the most important functions. In the administrative and political hierarchy, the county was traditionally seen as the level of government below the national level. (Mullally, 2004).

Today, this centralized structure is maintained primarily through the financial reliance of the local governments on the central national government. This limits the ability of local authorities to take independent initiative (Kenny, 2006). For most social services and otherwise, central government retains authority. Local authorities therefore have limited say in education, health, policing, and public transit (Roppe, 2001). In addition, most legislation in Ireland does not philosophically follow the continental European practice of

‘general competence’, which allows for local authorities to take action on matters outside of their legal jurisdiction.

Prior to the Local Government Act, 1991, Ireland employed the traditional common law system of local government. Under this system, local government only had competences that were specified in statutory law, also known as *ultra vires* (beyond the powers). Ultra vires doctrine limits local government to the responsibilities that are specifically listed under law. While local authorities in Ireland were given a general competence provision in the Local Government Act 1991 under section 6, the situation remains that through financial reliance on central government, local authorities are only able to act on their ‘general competence’ in limited ways. Thus it has remained that local government is essentially a creature of the national government.

Irish local government in its modern form can be traced back to the Local Government Act of 1898. In fact, it predates the modern national government of Ireland, which did not have its first general election until 1923 (Mullally, 2004). None of the permutations of the Irish Constitution gave formal recognition to local government, however the 20th Amendment to the Constitution of 1999 formally recognized the role of local government for the first time.

As with many other aspects of Irish government, counties can trace their origin to the Norman invasion of Ireland, and were based on the county units used in England. Today, counties serve as the main unit of local governance and are responsible for planning,

housing, roads, water services, local environmental issues, and community services (Fingal County Council, 2012). Most counties cover an area roughly similar to that of their traditional delineations. However, many changes have been made to their areas of jurisdiction over the last 100 years. Most recently, the Local Government Act, 2001 established five new counties for the largest population centers: Dublin, Cork, Limerick, Galway, and Waterford.

Local authorities in Ireland retain most of the front-line responsibilities (dealing directly with citizens' needs) of governance in Ireland and their units are quite numerous given the size of Ireland. There are 35 primary (Tier 1) local authorities, which includes 30 county councils and five city councils. At the sub-county (Tier 2) level there are 80 more town councils. Local authorities are given their power and function from legislation that emanates from the central government.

The Local Government Act governs local authorities, with its most recent incarnation (2001) creating a two-tier system. (Department of the Environment, Community and Local Government, 2012). The Local Government (Planning and Development) Act, 1963, for the first time gave local authorities the responsibility of creating Development Plans that guide land-use, provision for amenities, industry, and so on (Mullally, 2004). The current jurisdictions of local authorities can be divided into eight categories: housing; planning; roads; water supply and sewage; development incentives and controls; environmental protection; recreation facilities and amenities; agriculture, education, health and welfare (Irish Regions Office, 2006). As elected bodies, local authorities are

responsible for representing their constituents. Local authorities are elected every five years, and each council varies in size. County councils are typically in the range of twenty to forty-eight members, with City Councils ranging in size from 15 to 52 members (Irish Regions Office, 2006).

Each local authority can be further organized into two distinct decision making bodies: reserved and executive. The hierarchical ordering of local government in Ireland is still based on the management-style system first introduced in 1929 (Mullally, 2004). This managerial system splits responsibilities between the reserved and executive functions. As elected representatives, council is the policy-making body at the local level, deciding on policy and finance issues through the reserved functions. Responsibility for executive issues such as staffing and working within the policy guidelines of council falls to the city manager and staff. Local authority responsibilities have been in a state of flux in the last decade. Following the Local Government Act, 2001, a number of initiatives have been launched to improve local government. The Local Government Act, 2001 created an elected council for each designated county, town, borough, and city (Local Government Act, 2001). Recently a number of other reforms have taken place following the Better Local Government Proposals. One example is the introduction of Strategic Policy Committees, which consist of elected officials and members of the community that assist in formulating and reviewing policy, and City/County Development Boards, which try to coordinate agencies at the local level (Irish Regions Office, 2006).

The regional level of governance in Ireland is relatively new to the political landscape: in 1991 the Local Government Act created eight Regional Authorities. Later in 1999, negotiations relating to Agenda 2000 resulted in two Regional Assemblies being established. Regional Assemblies and Regional Authorities are both unelected, and can be viewed as a product of the growing impact of EU policies at the sub-national level. One way of understanding Regional Authorities in Ireland is that they are groupings of counties, and Regional Assemblies are made up of the eight Regional Authorities. While coordinating EU resources and policies in Ireland, both regional entities also play a role in informing the development of EU legislation that will be implemented at the local level (Irish Regions Office, 2012). The regional levels of government are considered to be relatively weak in Ireland, which can be partially attributed to their newcomer status.

Ireland's two Regional Assemblies are designated as NUTS II level regions for the purpose of allocating and monitoring the impact of European Union Structural Funds. The NUTS acronym stands for 'Nomenclature of Territorial Statistical Units', used by Eurostat to classify regions. Each Assembly receives different levels of funding because they are considered to be at a different stage of economic development: the Border Midland and Western Region has full Objective 1 status (the highest amount of EU funding), while the more prosperous Southern and Eastern Region (that includes Dublin) is being phased out of Objective 1 status over a six-year period. The core responsibilities of the Regional Assembly level government are related to dispersion of Structural Funds through exercises such as: Regional Operational Programmes, which are carried out and overseen by both Assemblies; analyzing the general impact of EU funding; and,

coordinating with other public bodies to apprise them of the regional implications for their policies and programs (Irish Regions Office, 2008). As such, Regional Assemblies are not a full member of the hierarchy of governance in Ireland because they are not directly elected and do not direct the levels of government beneath them. Local authorities are each given a number of member nominations for their respective Assembly based loosely on population.

The eight Regional Authorities have two main responsibilities: promoting the coordination of public services and monitoring the delivery of EU Structural Fund assistance in each region (Irish Regions Office, 2008). Regional Authorities are a NUTS III level of governance pursuant to the statistical population criteria for the classification system, and came into existence in 1994 under the terms of the Local Government Act, 1991. Regional Authorities have a high level role in the “coordination of the provision of public services”, while not directly providing those services themselves (Border Regional Authority, 2012). Infrastructure allocation and other staple services are instead the responsibility of local authorities. An important reason for this configuration was to provide regional level consistency to local policies. Previously there was no formal facilitator for policy coherence between different counties.

Perhaps most importantly, Regional Authorities are responsible for creating the policy bridge between local planning practice and national planning priorities through an annual report known as Regional Planning Guidelines (Border Regional Authority, 2012). Regional Planning Guidelines give direction to local authorities on how they should

implement national initiatives, and will be discussed further below. Regional Authorities also play a lead role in policy formation, identifying key deficiencies and solutions within their respective regions. This responsibility extends to reviewing Development Plans crafted by local authorities and ensuring their consistency with other Development Plans in the region (Border Regional Authority, 2012).

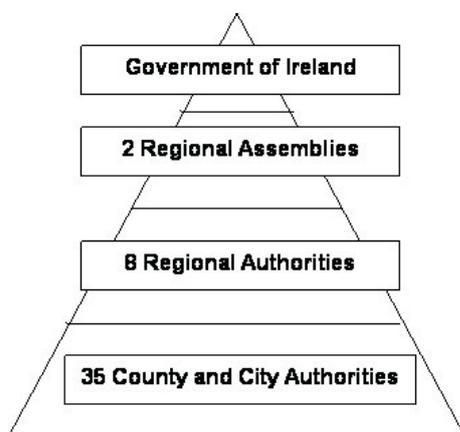


Figure 1: Hierarchy of planning authorities in Ireland (Convery, Mcinerney & Sokol, 2006)

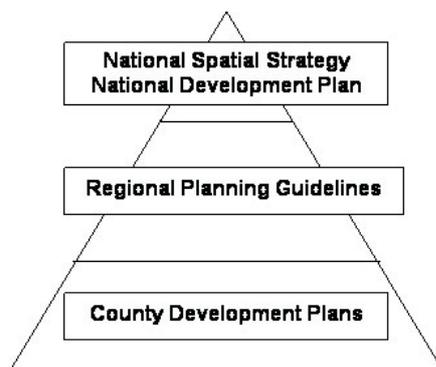


Figure 2: Hierarchy of planning documents in Ireland (Convery et al., 2006)

2.2 The Irish Planning System

The first modern planning legislation in Ireland was introduced in 1963 and was known as the Local Government (Planning and Development) Act. This Act introduced a town planning system to Ireland that was similar in many ways to the British planning system. In fact, the British Town and County Planning Act of 1962 largely informed the Local Government (Planning and Development) Act, 1963 (Bartley, 2007). While the Irish legal structure, political system, and administrative organization were inherited from Britain, the Irish planning system was not a carbon copy. The Irish instead opted for a different philosophical approach. The British planning system was not known as an exceptionally democratic process due to its managerial style, with each jurisdiction run by unelected New Town Corporations (Stewart, 2007). By contrast, the Irish system gave local authorities all of the functional powers in planning (Bartley, 2007). A key difference from the British system was the heavier emphasis on democratic aspects of planning where, “the ‘technical’ and ‘managerial’ aspects of planning in Ireland were subordinated to the ‘political’ aspects” (Stewart, 2007). Under the 1963 Act, the planning system in Ireland had three main functions: making and amending development plans, granting planning permission, and enforcement of planning decisions (Mahon, 2012).

Like Britain, Ireland’s planning system can be characterized as discretionary in nature, rather than regulatory. It is a form of development control where a high degree of discretion is given to elected officials when making decisions on planning matters. By contrast, in regulatory systems found in other Western European countries, emphasis is placed on administrative aspects of the planning process that stem from a constitution or

law, and as such can be more stable and predictable (Stewart, 2007). These concepts (discretionary vs. regulatory) are somewhat loosely applied (given that all systems have their own idiosyncrasies and differences), but it is sufficient to say that discretionary systems are more political in nature, whilst regulatory systems have more emphasis on administrative decision-making (Stewart, 2007).

While local authorities have the power and responsibility to implement planning legislation, the scope of their abilities is restricted when compared to similar sized jurisdictions in continental European countries. During the 1970s and 1980s, many Western European states applied the principle of subsidiarity to their governance model. The principle of subsidiarity states that matters should be addressed by the authority that is as close as possible to the citizen. This led to a general devolution of government responsibilities (Stewart, 2007). Ireland and Britain were exceptions to the trend of this era.

Local authorities in Ireland were given the responsibility of carrying out planning decisions, while overall national policy in planning was and remains the responsibility of the Department of Environment, Heritage and Local Government (DoEHLG). Local governments derive their power from central government, and they report to the Minister of Environment, Heritage and Local Government. Development Plans are the main planning document that local authorities have control over, and the ability to create them is a reserved function (decision-making power is with local councilors) (Walsh, 2010).

Under the 1963 Act, all development is required to have permission granted by local authorities (Mahon, 2012).

Irish planning governance is also unique in the European Union as it is one of the few countries that has a board of appeals: An Bord Pleanála. It was created in 1977 to independently rule on planning issues as an appeal body under the Local Government (Planning and Development Act), 1976. Previously the Minister of Environment had final say on all planning permissions. The Board has the power to decide either for or against allowing a planning permission, and on any other decision a local authority has made on a planning application.

Zoning is an important function of local authorities' planning responsibility in Ireland; zoning constitutes one of the few areas where local elected officials can exercise true discretionary power. Zoning as a form of land control has been in use in Europe for quite some time, first introduced as a response to the increase of private land ownership and then growth of construction following the Industrial Revolution (Stewart, 2007). Zoning grew from a need to separate land-uses that were not compatible, such as residential areas and heavy industry. Aspects of land-use that are considered in zoning can include the types of buildings, setbacks from the property line, their heights, and building footprint, for example.

In Ireland, zoning is used to divide areas into zoning districts that prescribe what kind of land uses will be allowed. Prior to the Planning and Development Act, 2001, Ireland's

planning system relied on single-use zoning designations, where only one type of use was permitted in each zone. As a result, the landscape of Ireland that was built over the last 50 years – similar to many parts of the world – tends to have separated rather than mixed functions, i.e. commercial uses in commercial areas and residential uses in residential areas (Stewart, 2007).

A majority of local authority councilors can change zoning designations. While democratic, this aspect of zoning decision-making has received its share of criticism as part of the traditional land-use planning system. Decisions on zoning matters can create windfall profits for landowners who have had their zoning changed from a less desirable designation to one that may have a more value, such as a change from an agricultural use to a residential use. Changes to a zoning designation can also occur as the result of political or development pressure, absent any scientific or planning justification for doing so. For example, the Mahon Tribunal (discussed in more detail later) was created as an investigation into local politicians receiving payments from developers to rezone agricultural land to more valuable residential land (Mahon, 2012).

The traditional process of land-use zoning in Ireland has also been cited as a cause for competition between different counties and regions. With 34 city and county councils, along with a further 80 town and borough councils, Ireland has a vast number of authorities that carry out planning and zoning functions (Irish Regions Office, 2006). Because of their constitutional inability to create new forms of taxation to raise revenue, these councils contest intensely for new development. Inevitably, the competition for new

development occurs between counties and between regions as they all seek to bolster their local economies with new business. This creates an incentive to allow for more and higher intensity land use. Local governments hope to benefit from the increased capital contribution levies (development charges) and commercial rates that are charged for new development (An Taisce, 2012).

This dynamic of the traditional land-use planning system in Ireland contrasts with the principles of spatial planning that tries to promote balanced regional development, which would try to lessen the impact of competition between localities. In the traditional land-use planning, zoning deals strictly with the land-use of a site and its effects on the local area. For spatial planning, zoning must be viewed in the wider context of its regional effects, taking into consideration what may occur outside of county boundaries, as well as wider sectoral policies that affect an area spatially but are not immediately related to planning, such as health or agricultural policy.

The traditional land-use planning model of Ireland is characterized by the discretionary form of decision-making in local governance. Decisions on plans and zoning are made by local authority councilors, who have discretion over how they consider the advice of professional planners and wider issues that affect their community. The transition toward strategic spatial planning requires the move toward an evidence-based regulatory framework, as will be discussed further below. This means that planning decisions will be policy-based initiatives with a stronger administrative approach and an appreciation

for the wider context, rather than being left to councilors that may not always work in the general public interest.

3. Theoretical Perspective

3.1 *Europeanization*

Europeanization has been an area of interest in EU studies since the 1990s, but has recently been employed in the academic debate of spatial planning. Europeanization generally describes two processes. The first process is the ‘top down’ process of Europeanization, which refers to, “the impacts of the EU on national polities, policies and politics” (Duhr, Colomb, & Nadin, 2010). In particular, it is the transfer of EU policies to domestic arenas. The second process is ‘bottom up’ Europeanization, which describes the uploading of national priorities and ideas to the European level. This paper will focus primarily on the ‘top down’ process of Europeanization, as it provides a useful lens for understanding policy transfer from EU to Irish planning.

In order to focus on the extent of Europeanization in Irish planning, the paper uses Radaelli’s (2004) definition of Europeanization:

Europeanisation consists of processes of a) construction, b) diffusion and c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of

domestic (national and subnational) discourse, political structures and public policies.

This definition of Europeanization is useful as it allows for a more thorough exploration of the role of ‘formal and informal rules, procedures, policy paradigms, and ways of doing things’. Radaelli’s definition offers a broad step-by-step of the process of Europeanization, allowing the researcher to frame and explore each step. This enables the study of expansive topics like the evolution of institutions, by helping to break their development down into smaller parts. The subject of policy formation in any given country is a complex one, and can be daunting to analyze the many different aspects that effect and are affected by change.

For this paper, it is useful to consider the process of Europeanization as one of incremental progress. The study of history is often focused on singular events, and tends to obscure a more nuanced approach to reviewing a given topic over a long time period. Europeanization is also a process that occurs over time, which is an aspect that is easily overlooked. Ladrech (1994) tells us that Europeanization is an, “Incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making” (Radaelli, 2000). Understanding Europeanization as an incremental process will provide a useful framework in which to understand the development of regional policies in Ireland over time, and also fits well with our other theoretical framework *historical institutionalism*.

Europeanization can occur in different ways depending on a country's political culture, legal system, and governance structure. One strand of Europeanization study has focused on the so-called 'goodness of fit'. 'Goodness of fit' refers to the variety and range of domestic responses to EU pressure. These responses are broken down to: transformation, accommodation, and absorption. As Duhr et al. (2010) points out, if the fit between European institutions and national institutions is poor, adaptation pressure will be elevated and therefore transformational as the national government must significantly alter domestic policy in order to be in line with EU policies. If the fit between EU and national policy is good, then adaptation pressure is low, and the nation can absorb EU policies easily without substantive change. This is a useful yardstick for measuring the progress of Europeanization, as it can proceed at different speeds depending on the 'goodness of fit'.

The concept of multi-level governance has become popular in EU studies in recent years, and is most often associated with the pan-European political system. Despite this, it is a relatively new term. Given its seemingly useful approach for this thesis subject, it must be addressed as to why it will not be fully employed. Scholars in the social sciences have expanded the scope of well-established concepts to describe how governance has been changing in western societies. Multi-level governance is among a number of new concepts to arise that tackles this issue, and is counted among multi-tiered governance, polycentric governance, and fragmentation as popular tools. While all have different characteristics, they each, "refer to the dispersion of authority away from central government—upwards to the supranational level, downwards to subnational jurisdictions,

and sideways to public/private networks” (Hooghe & Marks, 2001). Hooghe and Marks (2001) also indicate that there is a common thread among literature on the subject, which is that the dispersion of authority away from central governments is in fact a positive development. They find that this dispersion of authority is generally more efficient and reasonable than central state monopoly.

Multi-level governance (MLG) as a conceptual framework is often employed in tandem with Europeanization. The conceptual use of MLG was first developed to help describe the affect that EU Cohesion Policy and Structural Funds have on EU nation states.

However it is often criticized as lacking ‘a set of testable hypotheses’, simply identifying the dynamics of European integration and leaving them unexplained (Dühr et al., 2010).

This is part of the rationalization for not using MLG as a framework for this thesis.

Despite its popular use together with Europeanization, it is not the ideal framework for studying the development of regional policy in Ireland. First, while MLG emphasizes the gradual dispersal of authority across different sectors and actors, it can be contended that Ireland is still a highly centralized state despite Europeanization. While this paper delves into the evolution of regional planning policy and its introduction as a new level of government, indicating dispersal, the fact still remains that sub-national authorities in Ireland are substantially under the control of the central government (Mullally, 2003).

Secondly, an important aspect of MLG is concern over outside actors gaining power due to the dispersal of authority from centralized government. This paper will not be looking at cross-sectoral power transfers, and focuses instead on the changing nature of institutional relationships.

Finally, as a governance system, Ireland stands out in a number of ways that does not make it entirely amenable to multi-level governance analysis and the purposes of this thesis, which looks at regional planning policy development over time. The centralization of Irish government, the scale and function of local government, the comparatively weak level of autonomy for local authorities, and the lack of institutionalization of regional governance, all make for a poor fit with MLG. In contrast, historical institutionalism and its distinctive element of path dependency theory are much better suited for tracing the evolution of regional policy and its effects on Irish planning.

Europeanization is a useful theoretical framework to employ in this thesis because it will shed light on the impact of policy ideas that are downloaded from the EU. The EU is the main driver of region level planning policy in Ireland. Europeanization can therefore provide insight into the causes, successes and failures that occur when implementing spatial planning and regional policy in EU member states.

3.2 Historical Institutionalism

Historical institutionalism as a theoretical perspective arose to address a criticism of rational choice institutionalism, which was that rational choice institutionalism does not account for how institutions evolve and shape political outcomes over time (Dühr et al., 2010). Historical institutionalism instead tells us that, “history matters”, and that the path that is chosen early on in the existence of an institution will tend to be followed throughout the institutions’ development. Institutions also, and as a consequence, “have

the capacity to shape the goals and preferences of actors, to structure political situations, and to a certain extent determine possible political outcomes” (Duhr et al., 2010).

This thesis will advance the distinction made by Douglass North that conceptually, organizations such as schools, churches, or unions are not the same thing as institutions. Rather, institutions are the set of rules that such organizations exist in, influence, and are influenced by. The analogy of sports is used to make clear that organizations are the players, while institutions represent the cultural norms and formal rules that shape how the game is played. More generally, historical institutionalists would define an institution as, “formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy (Hall & Taylor, 1996). In this context, institutions reflect but also influence the environments that they operate in (Dimitrakopoulos, 2001). Institutions also affect interactions between individuals. Douglass North (1991) provides a helpful definition, framing institutions as, “the rules of the game in a society or, more formally, [as] the humanly devised constraints that shape human interaction” (North, 1991).

In this paper, the *Irish planning system* will be studied as a set of institutions that will be broken down further to more suitably study the issues addressed in this paper. Douglass North (1991) distinguishes between two kinds of institutions: formal institutions made up of written rules, policies, and law (e.g. property rights, constitutions, government regulations), and informal institutions, which are the unwritten rules of culture that

govern the actions of people, such as taboos, customs, and traditions. Much of the research in this field focuses on formal institutions like law, and this paper will continue in this vein, with emphasis on the evolution of formal institutions.

The Irish planning system can be formally defined as a statutory land development control system: one that is governed by laws and overseen by authorities; and, informally participated in by authorities, stakeholders and the public at large. For the purpose of this paper, it is the formal rules, legal features, and informal ‘ways of doing things’ underlying the planning system that are of primary interest: the structures that both reflect and influence individual actions that in whole make up the Irish planning system.

It should be noted that North (1990) was skeptical of using formal institutions to better understand the incremental process of institutional paths and change. Written laws and rules can be rewritten, and are interpreted differently over time. A constitution for example, can and will be interpreted differently by someone living now compared to an individual who lived 100 years ago. Therefore in North’s view, informal institutions offer promising insight into the nature of institutional change. This can also be observed when one formal type of institution is applied in different countries with different cultures and produces different results. Douglass North uses the example of constitutional development in the Americas. Because of the success of the North American model, it was applied to many South American countries. It did not however produce the same results. It can be said that this was a result of the permanence of informal institutions:

culture, language, and ways of doing things have staying power. Indeed a surprising aspect of many societal upheavals is, “the persistence of so many aspects of a society in spite of a total change of the rules” (North, 1990).

Formal institutions will be the focus of this paper primarily because, as North states, “it is much easier to describe and be precise about the formal rules that societies devise than to describe and be precise about the informal way by which human beings have structured human interaction” (North, 1990). This will allow for the beginning of an exploration into the relationship between the formal and informal institutions of the Irish planning system. Given that informal institutions are shaped by culture, they will be described only insofar as they may be used to advance the understanding of formal institutional evolution and change. This thesis intends to create a starting point for understanding this complex relationship, which can be built on in future studies.

There are other aspects of historical institutionalism that make it appealing to use over other branches of new institutionalism. First, the relationship between institutions and individuals is viewed broadly. This view tries to understand how institutions affect the behaviour of individuals. There are two ways that this query is dealt with. The first is through the ‘calculus’ approach, which assumes that individuals will seek to maximize their returns. The second is the ‘cultural’ approach, which emphasizes that individuals, while rational, often rely on their worldview to make decisions (i.e. formed via informal institutions). This often means people will employ familiar habits to achieve their goals. The cultural approach broadens the understanding of the individual person, who at once

is a maximizer of utility but also someone that seeks to maximize satisfaction via their interpretation of a given scenario (Hall & Taylor, 1996).

Second, historical institutionalism highlights the importance of asymmetries in power that are related to the growth and operation of institutions. In this case, “[historical institutionalists] assume a world in which institutions give some groups or interests disproportionate access to the decision-making process... they tend to stress how some groups lose while other groups win” (Hall & Taylor, 1996). It can be argued that this dynamic was also a part of the Irish planning system, where those individuals in the business of land development had privileged access to local authority councilors, while the public was generally not given the same level of access. Third, historical institutionalism attempts to integrate a variety of factors into an analysis—such as socioeconomic development or the diffusion of ideas—of political dynamics. It is believed among historical institutionalists that there are many factors that shape political discourse, with special attention being given to the influence of ideas and beliefs (Hall & Taylor, 1996).

Historical institutionalism as a theoretical framework has also been chosen because it is particularly suited to the task of studying the long-term lifespan of institutions (Rosamond, 2010). This provides an appropriate framework for studying formal and informal institutions that make up the *Irish planning system*. In addition, the larger theoretical family of new institutionalism (of which historical institutionalism belongs to

as a field of study) in its various forms has often been applied to discourses on ‘top down’ Europeanization.

Finally, the concept of path dependence in historical institutionalism will be used for this thesis. Path dependency describes how institutions or polities will follow a path that leads to seemingly predictable results (Dühr et al., 2010). This is not to say that they are predictable however. Path dependence simply creates a constraint of choices at a given point in time that can be linked to earlier decision-making. Once a course has been chosen for an institution, "network externalities, the learning process of organizations, and the historically derived subjective modeling of the issues reinforce the course" (North, 1990). For historical institutionalists, “institutions are seen as relatively persistent features of the historical landscape and one of the central factors pushing historical development along a set of ‘paths’” (Hall & Taylor, 1996).

Understanding institutional paths is partly accomplished through the analysis of the incentive structures and policy legacies that can influence the path as well as overall economic performance. In the literature on path dependency, the concept of increasing returns figures prominently. Increasing returns can be described as self-re-enforcing, positive feedback processes that solidify the direction of a given path (Pierson, 2000). One example is the learning process of organizations. While they face large initial start up costs, the process of learning the rules of an institution creates increasing returns through efficiency, which embeds them further in the institutional framework.

An aspect of path dependency that also gets considerable attention is finding how institutions create paths in the first place. An example of this would be finding out how nations create new pathways to address contemporary challenges (Hall & Taylor, 1996). Early analysts of this perspective looked at ‘policy legacies’ and ‘state capacities’ to understand the effect that those legacies had on future policy choices. Later analysts would look at how policy regimes would create a culture of actors who would become reliant on that policy structure, creating vested interests that make change difficult to implement (Hall & Taylor, 1996). All of these analyses stress that there are unintended consequences and inefficiencies in institutions due to their inability to control their own destinies, instead guided by past practices and the interests that become attached to those practices and ‘ways of doing things’.

Institutional paths may change as a result of ‘critical junctures’, such as a war or economic crisis (Dühr et al., 2010). These large events are often catalysts for abrupt changes in paths. A new course can then be set when these critical junctures occur, leaving an institution with little choice but to change. By contrast, it is acknowledged (Dimitrakopoulos, 2001) that between these large events, smaller incremental steps are taken which over time correspond to a broader pattern and the formation of a path. For this paper, it is conceived that incremental change over time will not necessarily result in a changed path. It is therefore possible to take steps in a new direction, but not have a change of paths. This element of critical juncture literature is important as it highlights that a critical juncture is possibly necessary for a true change in paths, but will not necessarily result in the successful change of a path.

Path dependency in historical institutionalism provides a framework for viewing the process of Europeanization and attendant planning policy evolution. Under this framework, an analysis can observe how the depth of transformation over time is affected by the set of constraints that are posed. In the case of Ireland's planning system, it is argued that the planning system and its actors took small steps towards Europeanization, incentivized by EU funds such as European Structural Funds, as will be discussed further below.

4. Europeanization of the Irish Planning System

Introduction

The Europeanization of Ireland's planning system has been part of a larger push to more fully integrate Ireland with the European Union and its guiding principles. The question to be explored in this section is *how the planning policy structure in Ireland has changed due to the pressures of Europeanization*. This alludes to the principles of European spatial planning being imparted to Ireland via policy documents like the European Spatial Development Perspective, resulting in the integration of those principles in Irish planning policy. An important aspect that will be addressed is the financial benefits that Ireland has received from the EU in return for implementing various EU policy recommendations, such as the creation of a regional level of governance.

The focus of this section will be on the evolution of regional policy as a key component of Europeanization, observed through the lens of path dependency and institutional

change. The regional scale of policy and governance is an important component of European spatial planning, and the promotion of using a regional level of government to implement planning policy is a significant component of the ESDP and EU Structural Funding initiatives. It is therefore useful to see how the creation and implementation of regional policy was achieved in Ireland in order to measure the degree of Europeanization that took place.

4.1 Spatial Planning and the ESDP

Since the 1990's, there has been a fundamental shift in how the practice of planning is viewed in Europe. Older perspectives of land-use planning based in the Anglo-Saxon tradition have given way to larger-scale strategic spatial planning concepts emanating from French and Dutch practices. As Healey (1997) notes, the general focus on land-use planning in the 1980s gave way to the contemporary interest in the management of social, economic, and environmental issues in larger regions (Gkartzios & Scott, 2009). This shift is a reflection of the emergence of spatial planning as a strategy to address policy gaps left by the traditional, narrower land-use planning process.

Spatial planning has been written about a lot in planning literature, and as a result it can be a somewhat ambiguous term. Here we define spatial planning as the two primary ways that it is employed: “the governance system for managing spatial development and/or physical land use in a particular place; and as a specific term to describe a particular idea or definition of spatial planning as a coordination mechanism that has arisen through debate at the European level” (Duhr et al., 2010). It is important to stress that spatial planning in Europe as defined here is different from land-use planning. As Duhr et al.

(2010) notes, “spatial planning is not positioned as a sector of government regulating physical development but as a cross-governmental activity intended to guide and integrate the spatial development impact of all sectoral policies.” As a term, its adoption is widespread in the European Union (Davoudi, 2003). It can be found in a number of EU policy documents that promote a regional approach to managing spatial development, the most well-known being the European Spatial Development Perspective (Gkartzios & Scott, 2009).

Throughout the history of planning policy in the European Union, different perspectives have dominated the discourse on how the EU should develop spatially. For the purpose of this thesis, it is useful to understand the two dominant perspectives that influenced the development of regional policy in Ireland. First, there was the institutional approach that emanates from Anglo-Saxon countries, which focused on local economic growth. It informed the early Cohesion Policy as a result of the new membership of the United Kingdom, Ireland, and Denmark in 1973, injecting Anglo-Saxon land-use planning principles into fledgling European regional policies and programs. This approach relies on a problem solving method: development and its attendant problems are addressed as they arise.

The second approach is the territorial perspective. It was first introduced at the European level through the European Spatial Development Perspective (ESDP).. The territorial perspective is popular in continental Europe, and can be primarily traced to Dutch and French traditions, particularly that of the French *aménagement du territoire* model (Duhr

et al., 2010). As its name suggests, the territorial approach is concerned with using development policies to promote growth in regions on the periphery of where development is already strong, emphasizing a top-down approach.

The European Spatial Development Perspective (ESDP) has been a highly influential document in European spatial planning, evidenced by the adoption of its concepts and policy ideas by numerous Member States. Its promotion of the regional spatial scale as a tool to create and integrate policy has impacted planning practices in much of Europe. Chiefly, co-operation between Member States, regions, and local authorities has been encouraged as part of the ESDP's initiative. It can be said that:

The ESDP suggested a new spatial vocabulary for many European planning frameworks, by promoting the region as the most appropriate scale for policy action and implementation... and supports the application of a balanced spatial development in order to tackle current spatial trends in the EU territory (Gkartzios & Scott, 2009).

Key to this new spatial vocabulary is the use of concepts like polycentricity, redefining urban-rural relationships, and equal access to quality infrastructure (Gkartzios & Scott, 2009). Polycentricity in particular plays an important role in the Irish case, as it can be conceived as a response to the concentration of development that is characterized by Dublin's place at the center of the Irish economy. This will be discussed later in further detail.

The European Spatial Development Perspective seeks to facilitate the integration of broad sectoral policies that have a spatial impact. While the European Union does not have formal authority in spatial planning, many of its other policies have spatial impacts. In addition to EU initiatives such as agricultural policy, many targeted investment schemes are specific to regions in certain Member States. Integration of sectoral policies is an important concept in the ESDP, as this is viewed as a guiding principle of strategic spatial planning. The desire to co-ordinate diverse sectoral policies with a spatial impact is a feature of spatial planning that differentiates it from more traditional land-use planning.

4.2 The path of regional policy development in Ireland

4.2.1 Evolution of Structural Funds and National Development Plans in Ireland

The Irish experience with EU Structural Funds, regional planning policy, and subsequent creation of a national spatial strategy suggests that the Irish planning system only partially fits the Radaelli (2004) definition of Europeanization: while Europeanization did occur in terms of policy construction, it did not fully engage the process of diffusion, and did not reach the point of institutionalization. This section will consider the policy construction stage as one of creating formal institutions: laws, formal agreements, and financial arrangements that altered the formal structure of planning in Ireland. It observes the incremental evolution of regional planning policies in Ireland through the lenses of Europeanization and institutional change. This will contextualize the development of

regional planning policies to show why Europeanization as defined, did not fully occur in Ireland's planning system.

At the earliest stages of creating a regional policy level in Ireland, the country sought to limit the influence of EU policies while also taking an opportunistic approach toward Structural Fund programs. The first example is Ireland's strategy during the negotiations of the European Regional Development Fund (ERDF). The ERDF was created in 1975 in response to English and Italian pressure to create the first regional fund in the European Community— an initiative also backed by Ireland— and was to eventually become an early model for later Structural Fund programs, whose purpose was to address regional imbalance and promote the redevelopment of areas in economic decline (European Parliament, 2001). At this point, the European Commissions' (still in its infancy) ability to dictate terms and conditions to Member States was weak. Ireland was therefore able to convince the EC to designate the whole country as a region in need of structural funding, rather than targeting smaller areas, as was the desire of the EC (Rees, 1999). The entire country was therefore given the NUTS II designation (Adshead, 2011).

More generally, there was a belief in Irish government at the time that the European Commission was not able to force any change upon Ireland's existing political structure in exchange for providing funding. Despite the Commission's demands, its poor bargaining position, along with limited EC regulations of the time, gave Ireland the upper hand in negotiations. For example, while the Commission wanted to see local levels of government involved in the negotiations, their input was limited by the national

government because of the popular belief in Irish politics at the time that local governments could not be trusted to be effective (Rees, 1999). In the eyes of the Irish government, power and therefore negotiations for regional funding had to stay centralized at the national level.

The Structural Fund reforms of 1988 were the genesis of regional policy in Ireland. Prior to this, there was no concrete distinction between national policy and regional policy (Mullally, 2003). In fact, Ireland's regional development policy was confined to being one part of Ireland's overall industrial policy, with little connection to planning policy. The Structural Fund reforms of 1988 created stricter—although not comprehensive—institutional requirements for Ireland to adhere to in order to receive funding.

The 1988 Structural Fund reform had two major requirements: the creation of a National Development Plan, and the creation of other programs that focused on regional issues and problems. The National Development Plan (1990-1994) (NDP) of 1989 further illustrated the popular belief at the time that the consideration of local and regional interests was seen as a “cosmetic exercise” by the central government in Ireland to fulfill the EC Structural Funding criteria (Adshead, 2011). Rees concurs, stating that, “The priority was to create a national plan, designed to ensure Ireland's Structural Fund receipts” (Adshead, 2011). This was also apparent to the Commission. As Rees noted, “[w]ithin the Commission those officials involved with the Irish submission were conscious that the Government had made a largely symbolic attempt at [local] consultation and that the plan envisaged a limited role for local authorities” (Rees, 1999). Indeed, the NDP's (1990-

1994) main purpose was to improve competitiveness and efficiency in the Irish economy by focusing on inadequate infrastructure and low population density, rather than follow the EC desire to focus on regional development through local consultation (Adshead, 2011).

One important outcome of this structural fund reform was the requirement to consult local authorities on regional matters. This resulted in the creation of seven sub-regions, initially created to undertake this consultation as required by the European Commission in the first National Development Plan (Adshead, 2011). In response, the central government initiated its first mandated round of local consultation (Rees, 1999).

However, this was seen as a symbolic gesture, as many individuals who were consulted at the local level felt that their suggestions were ignored in favour of promoting national government priorities (Rees, 1999).

The 1994-1999 National Development Plan contained the first real acknowledgement of partnership between the different levels of government as promoted by the 1988 reform. It introduced a 'key element': a localized development program known as the Operational Programme, devoted to Local Urban and Regional Development. This program is considered by scholars (Rees, 1999; Adshead, 2011; Mullally, 2003) to be the first formal recognition of regional policy in a National Development Plan (NDP). In addition, the seven regions from the first NDP were augmented with one more, bringing the total to eight, following a report on local government reform (Adshead, 2011). For the 1994-1999 Structural Fund period, Ireland as a whole remained a NUTS II region: the entire country was still considered to be under the per-capita GDP threshold of 75% of the EU

average (this is the requirement for receiving Objective One funding, the highest amount of funding available) (Adshead, 2011).

During the 1990's, Ireland's economy grew rapidly and eventually breached the GDP criteria set for Objective One status (Davoudi & Wishardt, 2004). The solution for optimizing Structural Fund monies was to divide the country into two NUTS II regions, which meant that Ireland could keep its Border, Midlands, and Western Region under Objective One status, while the remaining Southern and Eastern Region could qualify as 'Objective One in transition' status (Adshead, 2011). As a result, in 1998 Ireland was divided into two NUTS II regions, with a Regional Assembly created to oversee each of them.

The two new NUTS II regions came under the authority of the Regional Assemblies, and divide the eight smaller NUTS III Regional Authority areas into two groups. An important distinction of Regional Assemblies is that they became responsible for the implementation of National Development Plans. Regional Assemblies therefore were responsible for implementing the following 2000-2006 National Development Plan. The two Regional Assemblies were also created to help manage the Operational Programmes in each of the NUTS II regions. Seven Operational Programmes were created, with three Inter-regional and two Regional Programmes.

Ireland lobbied the European Commission extensively to receive the two NUTS II designations so that it could receive the highest possible amount of Structural Funds, an

effort that was, “also preceded by a sustained and well-publicised national campaign by politicians and pressure groups whose motivation was also predominantly subsidy induced, rather than an interest in regionalisation as an alternative to the hitherto centralised state of affairs” (Rees, 1999). In effect, an ‘overnight conversion’ to regionalization policy was made with commitments to strengthen local and regional policy and levels of government through the new Regional Assemblies. This approach was summed up by then Minister of Finance Charlie McCreevy: “the government’s objective in this round of Structural Funds will be to secure for Ireland the optimum level of funding” (Adshead, 2011).

Splitting the country into two NUTS II regions in addition to the already-operational eight NUTS III regions is a telling portrait of the institutional view in Ireland for working with EU Structural Funds. While the purpose of the exercise for the EU was to strengthen local and regional actors to minimize regional disparities, the main goal of the Irish national government appears to have been the retention of as much Structural Funding assistance as possible. This later addition of two NUTS II regional areas made it clear that it was a convenient administrative move rather than an actual attempt at creating a stronger regional policy structure (Rees, 1999). During the creation of the two new Regional Assemblies, commentators noted, “it is difficult to conceive of these structures having much political or regional significance, beyond being administrative entities for the national government” (Rees, 1999).

The third National Development Plan for 2000-2006 was a definitive shift towards cementing regional policy in Ireland, and became the principle means for funding regional development while moving away from the earlier sectoral approach to funding (Mullally, 2003). For the first time, the goal of growth was complemented with achieving, “balanced regional development” as a key objective (Department of Finance, 1999). It has been suggested by Walsh (Davoudi & Wishardt, 2004) that as early as the mid-1990’s, government reports and the business community began calling for a more coordinated approach to spatial planning with coherent regional policies (Davoudi & Wishardt, 2004). The 2000-2006 Plan recognized another regional issue for the first time: the effects that rapid urbanization has on rural areas that surround the largest urban centers. These effects include depopulation (as workers leave the countryside seeking work) and the higher cost of providing services due to a shrinking tax base (Gkartzios, & Scott, 2009).

The 2000-2006 Plan also provided the mandate for creating a National Spatial Strategy, which was intended to be a spatial blueprint for the country and guide major public investments in the long term. In particular, the NDP 2000-2006 aligned cities with targeted infrastructure investments by designating them as ‘gateway cities’ in the NSS. This meant that the National Spatial Strategy would guide the National Development Plan’s planned investment programs, which deploys funds derived from EU Structural Funds (Davoudi & Wishardt, 2004).

In the events described above, a clear path emerges in the evolution of formal institutions in Irish regional policy and planning. Formal institutions – everything from the creation of new regional programs to entire levels of government such as the Regional Assemblies – were created with the purpose of appeasing EU officials so that Structural Funds or other financial incentives could be secured. These financial incentives created increasing returns for Ireland’s national government and made this type of policy evolution more entrenched over time. In exchange for changes to the formal governance structure, the national Irish government received billions in Objective One funding.

4.2.2 The National Spatial Strategy

The 2002-2020 National Spatial Strategy (NSS) laid out a spatial planning vision for Ireland and borrowed a number of concepts from the European Spatial Development Perspective (ESDP). For instance, integrating gateway cities and hubs with rural areas to provide balanced regional development has direct lineage to the ESDP’s concept of polycentricity. The NSS is seen as a departure from traditional Irish land-use planning policy and one of the foremost examples of national-level spatial plans in Europe (Walsh, 2010). Like the ESDP, the National Spatial Strategy represents a shift away from the Anglo-Saxon planning paradigm and toward the territorial planning perspective advanced by the French and Dutch.

The National Spatial Strategy included three key initiatives. First, the NSS advocates the containment of sprawl around Dublin by promoting infill and brownfield policies. Second, eight ‘gateway’ cities and smaller regional ‘hubs’ are identified, which are meant

to support the growth of the rural countryside outside of the Dublin area. Third, the NSS intends to provide a framework for sustainable development, making the best use of natural resources while also fostering a quality built environment (Department of the Environment, Heritage & Local Government, 2002). Most importantly, the NSS provides a national framework for coordinating broader sectoral policies with a spatial effect for the first time in Ireland (Gkartzios & Scott, 2009). It also promoted a hierarchy of multi-level governance, with authority divided between local, regional, and national levels. All of these elements were regulated by statutory law under the Planning and Development Act of 2000.

As mentioned earlier, the National Spatial Strategy can trace its conceptual lineage to the European Spatial Development Perspective. While the NSS does not explicitly state this, multiple references point to this connection: the NSS was written only months after the ESDP was released; the NSS promotes a number of concepts such as balanced regional development, polycentric development, and an updated look at urban-rural relations; and, focuses on regional cooperation (Gkartzios, & Scott, 2009). Davoudi & Wishardt (2004) concur, stating that, “the NSS’s approach to develop a strategic framework for the future spatial structure of Ireland mirrors the ESDP’s approach for development of Europe as a whole. In fact the NSS fully adopts the ESDP’s perspective on the practice of spatial planning”.

The National Spatial Strategy was also developed as a response to the type of growth Ireland was experiencing. In a message from the Prime Minister that prefaces the NSS, he

described Ireland's growth as, "marked by spatial imbalance" (Department of the Environment, Heritage & Local Government, 2002). Here he is referring to the dominance of Dublin and its surrounding areas, also known as the Greater Dublin Area. Ireland has traditionally had a monocentric spatial structure, one in which the Greater Dublin Area is the primary city and takes the lions' share of economic activity and growth. Dublin's primacy was enhanced by the rapid growth that occurred during the Celtic Tiger period. The use of the polycentric development concept in the NSS is intended to counterbalance this dynamic. As the country became wealthier, the differences in inequality became sharper between regions.

Dublin played an important role in driving Ireland's growth during the Celtic Tiger era. As one of sixty-four Metropolitan European Growth Areas (MEGA's), Dublin is viewed by ESPON as an urban area with the ability to counterbalance the core of Europe, defined by the ESDP as the 'pentagon' (Davoudi & Wishardt, 2004). The success of Dublin created two central problems for policymakers in Ireland: the accelerated suburbanization around Dublin and a regional divergence of wealth as areas around the GDA became more prosperous while regions outside the GDA stagnated or declined. Growing suburbanization has led to increased traffic and expensive infrastructure provision for the commuter belt as it widened. This trend was coupled with increased house prices, which in turn encouraged longer commutes as people sought more affordable housing further afield. Between 1994 and 2001, house prices in Dublin rose over 200%, compared to 151% in the rest of Ireland (Davoudi & Wishardt, 2004). As investment and population gravitated towards Dublin, inequality widened between the GDA and other regions. One

response to this situation was the goal set out in the National Development Plan 2000-2006 to create more balanced regional development, which resulted in the National Spatial Strategy.

The implementation of the NSS was to be carried out by regional and local authorities, with national oversight of the Department of the Environment, Community and Local Government and its Minister. Under the Planning and Development Act of 2000, Regional Planning Guidelines were given statutory significance by becoming the link between the national objectives of the NSS and their implementation at the local authority level.

4.2.3 Planning and Development Act, 2000

The Planning and Development Act, 2000 was an important piece of legislation in Ireland, amending previous planning law while introducing a number of new concepts and entities. It began as a review of planning legislation, and eventually introduced new priorities for Irish planning, replacing the principle of “proper planning and development” with “proper planning and sustainable development” (Mullally, 2003). It also established the importance of the National Spatial Strategy, requiring that its principles be reflected in all Regional Planning Guidelines and County Development Plans (Department of the Environment, Heritage & Local Government, 2002). The 2000 Act also repealed the previous legal framework of the Local Government (Planning and Development) Act 1963 and the Local Government (Planning and Development) Act 1990 (Government of Ireland, 2004).

The Planning and Development Act, 2000 placed sustainable development at the center of planning policy while also introducing a formal hierarchy of spatial plans, along with two principles: a ‘strategic approach’ and ‘delivery of a high quality performance’ (Government of Ireland, 2004). It should be noted that ‘sustainable development’ is not defined in the Act. Each city and county was then organized under the larger regional frameworks of the NUTS III Regional Authorities and NUTS II Regional Assemblies. Following adoption of the Act, each of the eight Regional Authorities was required to create its own Regional Planning Guidelines by 2004 (Walsh, 2010). The Regional Planning Guidelines provide a development framework that City and County Development Plans would then have to follow to integrate the principles set out in the National Spatial Strategy.

The 2000 Act continues the use of Development Plans as the basic planning document at the local level, which provides more detailed planning and development requirements. Regional Planning Guidelines are the regional context for Development Plans. This hierarchy of policy documents addressed a problem that existed prior to the development of the National Spatial Strategy: that Development Plans existed in a ‘policy vacuum’, meaning that they were not required to consider their regional spatial context (Government of Ireland, 2004).

The Planning and Development Act, 2000 required Development Plans to implement the overall strategy for proper planning and sustainable development, as set out by the NSS, at the local authority level. This includes development objectives for the area, which were

expanded under the Act to include ‘provision of infrastructure’, ‘protection of the environment’, and the ‘renewal of areas in need of regeneration’ (Government of Ireland, 2004). The Act also requires that local authorities create enough land zoned for residential development over the life of their respective Development Plans (Department of the Environment, Heritage & Local Government, 2002). In addition, the role of councilors in the Development Plan review process was strengthened by the Act, which gave them the ability to direct changes during the drafting stage (Government of Ireland, 2004).

One of the notable departures from previous policy in the Planning and Development Act, 2000 was done through Part V of the Act, which relates to the provision of social and affordable housing. First, Part V obliges local authorities to make “detailed estimates of housing demand for all sectors – private, social and affordable housing – through the preparation of housing strategies as part of the development plan process” that are set within the framework of the National Spatial Strategy (Department of the Environment, Heritage & Local Government, 2002). However, what set Part V apart most was that it allowed planning authorities to require developers to cede up to 20% of land, sites or houses of their development to affordable housing in order to obtain a planning permission. This provision was intended as a response to the growing concern over high house prices and scarcity of supply in Ireland. The provision was referred to the Supreme Court by the President, which eventually found Part V to be constitutional (Norris & Shiels, 2007).

4.2.4 Regional Planning Guidelines

Regional Planning Guidelines are meant to bridge the gap between the goals of the National Spatial Strategy and their implementation at the local level via County Development Plans and Local Area Plans. Regional Planning Guidelines are a relatively new level of policy in Ireland, and as such are also meant to augment the role of the Regional Authorities that oversee them. This makes Regional Planning Guidelines an important link in enforcing the wider strategic objectives of the NSS. Section 21 of the Planning and Development Act, 2000 gives regional authorities the legal authority to create Regional Planning Guidelines in consultation with the local authorities in their jurisdiction. The Guidelines are created with 12-year time horizons, to be reviewed every six years (Department of the Environment, Heritage & Local Government, 2002).

Regional Planning Guidelines work within the overall framework of the National Spatial Strategy to create coherent regional plans for growth. They are required to be written in two parts: the first is meant to provide a scope and vision of growth in the region currently and where it is going to be in 2020; the second section provides the technical guidelines for spatial planning policies in the region. This section includes a prioritization of social and physical infrastructure projects and also considers inter-regional issues (South West Regional Authority, 2004). An important aspect of this is identifying development priorities in areas such as gateways and hubs, while also creating a strategy to leverage and strengthen these areas to benefit the rest of the region. RPG's provide population targets for counties as well as gateways, hubs, and other areas, derived from population projections contained in the National Spatial Strategy (South West Regional

Authority, 2004). These are used to link population and settlement targets with major infrastructure projects (South West Regional Authority, 2004).

Under section 27.1 of the Planning and Development Act, 2000, local authorities are obliged to simply 'have regard' to Regional Planning Guidelines when adopting their own development plans (Scott, 2006). In addition to the case study shown below, in many instances local authorities have been found to only give limited attention to their respective RPG's. Interview analysis carried out by Stafford et al. (2005) and major infrastructure planners like Dublin Transportation Office have noted that local authorities do not give much credence to their respective RPG's (Scott, 2006).

While the regional tier of governance has become fully integrated in policy, in practice the regions have not taken their place as full members of Irish government. Regional Authorities and Regional Assemblies lack elected representatives, and are instead made up of local members of county councils who are nominated by other local authorities and then appointed. In addition, regional bodies lack sufficient resources, with small staff levels that must oversee a large group of local government bodies and their activities. As Adshead (2011) notes, "the regionalization of Ireland was at best superficial and the state remained dominated by the long-standing centralized system of national programming" (Adshead, 2011).

The evolution of regional policy that began with EU Structural Funding and the subsequent creation of the National Spatial Strategy are evidence that the Irish planning system has moved many of its formal institutions toward a European-style of spatial planning. The EU Structural Funds facilitated a new policy framework in Ireland that promoted a long-term approach to strategic investment, creating new regional levels of government and higher level policy documents such as National Development Plans.

The successive creation of new regional levels— the first seven NUTS III regions, then eight NUTS III regions, followed by a new tier of NUTS II regions—illustrates the major changes that have occurred in the formal institutions of Irelands planning system. Indeed, the creation of NUTS II regions helped the Irish government produce a National Spatial Strategy via the National Development Plan 2000-2006, providing a framework for addressing regional disparities: a fundamental aspect of European spatial planning. This allowed policymakers to ‘join up’ different policy sectors that hitherto had worked independently from one another. These developments clearly show that Ireland was well into the policy construction phase of Europeanization as defined by Radaelli (2004) in its formal planning institutions.

The creation of Regional Planning Guidelines in Ireland was an important move towards a planning system that fully integrates the principles of the European Spatial Development Perspective and spatial planning in general. Regional Planning Guidelines provide a crucial link between the vision of the National Spatial Strategy and the local development plans that are meant to not only adhere to the principles of the NSS, but also

implement its directives so that there is a coherence of spatial development goals across the country.

5. The Celtic Tiger, Housing Crisis & Case Study

5.1 The Celtic Tiger, Housing Crisis, and Planning

The following section will introduce the period of Ireland's history known as the Celtic Tiger era, when the economy expanded rapidly and catapulted Ireland from one of the poorest countries in the EU to one of the wealthiest in the matter of a decade. The purpose of explaining this period in Irish history is to provide a background for the changes that were made to the formal Irish planning system and its regional planning policy structure after this period of rapid growth.

A general overview of the Celtic Tiger period will be given here followed by a description of the housing crisis, and its link to the planning system. This will provide context for understanding the changes made in the Planning and Development Amendment Act, 2010 that are relevant to the discussion of regional planning policy evolution and institutional change in this paper.

5.1.1 The Celtic Tiger

The 1990's saw Ireland emerge from a long period of economic stagnation. For much of the 20th Century, high unemployment, emigration, and crippling public debt in spite of high taxes had become familiar hallmarks of the Irish economy. Then from 1988 to 2007,

Irish Gross Domestic Product (national output) rose by six percent per annum, reaching double-digit growth from 1995 to 2007. GDP per annum in Ireland was double the growth of other EU countries during this period, outperforming the largest industrial economies (with the exception of China). To put this in perspective, Germany averaged 2 percent growth per year, while Britain and the United States averaged 3 percent and 3 ¹/₂ percent, respectively (Brawn, 2009). Unemployment in Ireland fell from 16 percent in 1994 to 4 percent in 2000 (this was doubly remarkable in that it was the lowest unemployment in Irish history), and the average income rose to among the highest of any developed nation (Honohan, 2010). The population grew steadily, pushed along by return migration and immigrants seeking work, creating a 16.8% population increase between 1996 and 2006 (Kitchin et al., 2010).

5.1.1.1 Two periods

It is important to distinguish between two phases of the Celtic Tiger era. The first period began in the late 1980s and ended roughly around 2000. The late 1980s were notable because the government managed to tackle its national debt — a problem that had plagued Ireland for years — while also managing to solve long-standing labour problems. In addition, Structural Funds from the EU contributed as much as 3% of the GDP per annum. This program helped improve Ireland's decaying infrastructure, which badly needed modernization at the time (Honohan, 2010).

The second phase of the Celtic Tiger period began in 2000, with the economy approaching full employment. At this time a major shift in the economy became apparent. No longer driven by exports, Ireland's GDP from 2002 onward became

dependent on the property sector of the economy. Professor Morgan Kelly in an article entitled, “on the likely extent of fall in Irish house prices” wrote that mature economies derive around five percent of income (GNP) from constructing houses (Brawn, 2009). By 2006 in Ireland, thirteen percent of the national income (GNP) came from constructing houses. Around 282,000 people (12.6 percent of workers) were employed in construction at the height of the building boom, making it the second largest employment sector in the country after the public sector. 12.6 percent of workers were employed in construction, compared to the EU average of 8 percent (Brawn, 2009).

5.1.1.2 Outside factors

Factors outside of Ireland’s borders had a strong influence on the ascent of Ireland’s economy. Most prominently, European Union funds and the growth of an export-driven economy both allowed the Irish nation to grow at some of the fastest rates seen in the EU during in this era. These two factors will be discussed below to clarify how the strength of Ireland’s economy was not solely derived from within Ireland, and that outside factors influenced growth.

EU Funds

Historically an economically weak member of the EU, Ireland has received substantial EU funding since the beginning of its membership. Following Ireland’s entry to the EU in 1973, it received an early form of targeted regional funding (European Regional Development Fund) to develop the previously unindustrialized western regions. The western regions were able to receive the highest available funding; spurring a 45% increase in manufacturing from 1971 to 1981 while the Eastern regions of Ireland during

this same period saw little growth in manufacturing (Breathnach, 2010). This targeted regional investment contributed to the proliferation of low-skilled, branch plant manufacturing jobs that characterized the export sector of the Irish economy until the onset of the Celtic Tiger period.

Export economy

One of the marked shifts in the Irish economy was the growth of exports.

During the first phase of development of the Celtic Tiger, deregulation prompted a surge of investment and led to exceptional growth in traditional manufacturing (output in branch plants increased threefold from 1991-2000) as well as service sector exports. In the 1990's, "Ireland embraced deregulation, entrepreneurial freedoms and free-market principles and aggressively courted high valued added export oriented foreign direct investment" (Kitchin, O'Callaghan, Gleeson, & Keaveney, 2012). The growth of service sector exports was led by software, financial services, and back-office activities, where foreign firm employment rose from 5% in 1989 to 35% in 2001 (Breathnach, 2010).

While much of the country experienced growth during this period, the East (which includes the Greater Dublin Area) solidified its already dominant position in the economy with the growth of the service sector, overwhelmingly in the East of Ireland. In addition, the concentration of export-related jobs in the East (75 percent in 2000) added another expanding sector to its list of successes (Breathnach, 2010). The export-driven nature of the economy was important enough to prompt a policy response in the National Spatial Strategy, saying that, "The export-oriented nature of the Irish economy is highly dependent on effective access to foreign markets", to ensure that Irish ports and other

points of contact with world markets are not overlooked in spatial planning policies (Department of the Environment, Heritage & Local Government, 2002).

5.2.1 The Housing Crisis

At the onset of the Irish housing crisis of 2007, house prices in Ireland dropped by more than 40 percent. A primary factor in the dramatic drop of house prices in Ireland was the presence of an oversupply of houses, diluting the value of homes in a market that at one time had seen home prices increase 489% in Dublin (Kitchin et al., 2010). As the regulatory system that oversees the pace and amount of development, the planning system has some culpability in creating the conditions that preceded this event.

The housing crisis became a symptom of wider economic issues: years of easy credit from Irish banks and a deregulated economy. It became apparent that Ireland's planning system was not operating as an effective check on the growth that had occurred in the housing construction sector, just as the banking sector had been poorly regulated by its government overseers. In 2010, an amendment to the Planning and Development Act, 2000 was created to fix gaps in the legislation that were believed to have allowed poor planning and a proliferation of construction in areas outside of designated growth centers. The Planning and Development Amendment Act, 2010 was an attempt to align local Development Plans with the Regional Planning Guidelines and Nation Spatial Strategy, the latter of which gave important directives on population growth and what areas could accommodate such growth.

5.2.1.1 The international context

To understand the nature of the economic collapse in Ireland, it is important to first consider the wider economic conditions that the collapse was a part of. This will provide a global context with which to view the Irish economy, as it became clear that the Republic of Ireland was highly exposed to global market events.

The most important aspect of the 2008 financial crisis as it relates to this thesis was the availability of cheap credit. The beginning of what became known as the “global credit crunch” has its roots in the creation and securitization of large groups of what are known as ‘sub-prime mortgages’ in the United States. Sub-prime mortgages are mortgages on real estate for retail buyers with a low credit rating: people who would normally have difficulty receiving a loan due to poor credit. This was fuelled by an abundance of cheap credit from banks that had been making gradually riskier loans to people with low credit ratings. These loans eventually extended to those who could not normally afford a typical home mortgage due to their low credit rating.

Economist Robert Shiller (2006) has argued that boom and bust cycles throughout history are predicated on the ‘irrational exuberance’ of market actors and society in general. The underpinning of this theory is the belief of the general public that markets will continually move upward without any change. When everyone is confident that the market will continually get better, it will eventually reach a point of being overvalued. Once there is a general perception that the market is overvalued, market prices will fall back to historic averages.

In Ireland's case the success of the Celtic Tiger in the 1990s created a similar 'irrational exuberance' for housing, one that would help to mask a housing bubble. The sustained growth in employment, income, house formation, and prospective mortgage interest rates allowed for an upward push in the "willingness and ability to pay for housing" (Honohan, 2010). It also made Ireland one of the economic success stories of the 1990's, prompting Irish politicians to travel to BRIC countries to teach these developing nations how to emulate Ireland's success (Honohan, 2010). It should also be noted that when Ireland became a founding member of the Eurozone, it experienced a dramatic fall in nominal and real interest rates. This dynamic helped create a new norm of asset valuations, including housing. This new norm, "helped sustain a belief that equilibrium house prices would soar and that housing demand would continue to grow for the foreseeable future" (Honohan, 2010).

5.2.1.2 The role of the Irish Banking system

Since the onset of the global credit crunch, Ireland's banking system was surpassed in notoriety only by Iceland's. However, unlike many other parts of the world, Irish banks were not tied to the problems beleaguering the US economy: "Irish banks had not indulged in the financing of US securitized mortgages, nor were they involved in aggressive international acquisitions – flaws that characterized weakened banks elsewhere" (Honohan, 2010). A similar process did take place however, where Irish banks gradually made riskier loans to people who under normal circumstances could not afford a mortgage.

This decline of the Irish economy, while pushed by a global economic downturn and no doubt a result of many domestic factors, had its roots in the Irish banks' deep involvement in the Irish property market. As the Honohan Report notes, "the current difficulties of the Irish banks – whether in terms of liquidity or solvency – are directly attributable to their over-lending for land and property investment, much of it through heavy short-term wholesale foreign borrowing" (Honohan, 2010). It becomes clear that the banking sector was vulnerable because of its heavy investment in the construction boom in Ireland. This practice significantly exposed Irish banks such as Anglo-Irish Bank to the global liquidity crisis. However, it is important to distinguish that the property bubble was very much a domestic issue that was triggered by the global financial crisis: "Although international pressures contributed to the timing, intensity and depth of the Irish banking crisis, the essential characteristic of the problem was domestic" (Honohan 2010).

Regulators in Ireland failed to grasp just how vulnerable banks were becoming to property prices, with the high volume of loans they were making to developers and homebuyers alike (Honohan, 2010). Pushed by new banks — Anglo-Irish Bank and UK-based retail lenders — with aggressive lending policies, the old and traditionally conservative Irish banks were drawn in to a competition between banks to offer the cheapest credit in Ireland. Thus, in an effort to retain their traditional market share, the largest banks, "tolerated a gradual lowering of lending standards, including decisions to authorize... numerous exceptions to stated policies" (Honohan, 2010). At the macro-economic level, this competition between the banks ballooned the retail property

markets' share of the Irish economy. For example, "at the end of 2003, the net indebtedness of Irish banks to the rest of the world was just 10 percent of GDP; by early 2008 borrowing, mainly for property, had jumped to over 60 percent of GDP" (Honohan, 2010).

It now seems clear that domestic regulatory policies did not act as an effective counterweight to the forces that created the Irish property bubble. In Ireland, national inquiries like the Honohan Report (2010) exposed bank regulation, financial policy, and fiscal policy as being inadequate in fostering economic stability. Pro-cyclical economic policies left government bodies highly susceptible to market downturns, as they became more reliant on development-related taxes (Honohan, 2010). For example, regional tax incentive schemes to boost the construction sector in areas of less demand (ex. Western Ireland) further contributed to an already heated construction sector.

The Irish economy experienced one of the strongest crashes during the 2007 economic downturn. With construction making up so much of Ireland's GDP, once the housing industry had collapsed because of the fall in house prices, the rest of the economy fell with it. Many mortgages went 'underwater', which is when the cost of a mortgage becomes higher than the value of the home. Construction work slowed dramatically, creating high unemployment as the construction sector cut its workers, many of whom were from other countries in the EU. Public finances dried up as development charges were not being levied and workers left, shrinking the tax base. Higher unemployment led

to strained government budgets as those out of work had to be accommodated by unemployment insurance.

5.2.2 Housing Crisis in Depth

Following the initial economic expansion from the early 1990's to 2002, Ireland's growth became more and more dependent on the property market. In the ten-year period between 1996 and 2005, a total of 553,267 housing units were built, totaling 1.733 million in housing stock (Department of the Environment, Heritage & Local Government, 2009). Ireland was producing twice as many housing units per person than every other country in Europe by 2007, with only the exception of Spain, which rivaled Irelands output of housing units (Kitchin et al., 2010).

The construction boom occurred alongside and was facilitated by a dramatic increase in housing prices. From 1991-2007, average new house prices in Dublin increased by 429%, while Ireland as a whole experienced a 382% increase (Kitchin et al., 2010). Over the same period, second-hand houses follow a similar trend, with second-hand house prices in Dublin increasing 551% while the entire country saw an overall increase of 489% (Kitchin et al., 2010).

The aspiration of home ownership or 'flipping' (speculatively buy and sell houses) contributed to the growth of the housing bubble in Ireland. With a relatively high rate of home ownership (almost three quarters of private homes were owner-occupied in 2006), it can be argued that there had been a cultural impetus for home ownership in Ireland as well (Kitchin et al., 2010). Indeed, as the property market heated up, more people tried to

take advantage by getting into the housing market. As noted by Brawn (2009), “by 2007, the Bank of Ireland Group were lending as much money to buy-to-let and flip speculators (28%) as to first time buyers” (Kitchin et al., 2010). Further, it was estimated by Hooke and Macdonald that speculators had bought 27% of new homes in 2007, implying that before the housing crash there was roughly one quarter of all houses that had no persons to occupy them (Brawn, 2009). In a spatial sense, the culture of home ownership in Ireland — particularly in rural areas — promotes building a house wherever the owner likes, as a ‘one off house’. Historically, people were allowed to build where it suited them, and this has added to the proliferation of one off homes that are located in areas outside of gateway cities, hub cities, and towns, away from infrastructure and convenient travel options.

As Honohan (2010) noted, it is probable that property prices would fall in Ireland whether or not there was a global credit crunch. Indeed, house prices in Ireland began to fall a full 18 months before Lehman Brothers collapsed in the United States (Honohan, 2010). The global credit crisis was simply, “the trigger for a more sudden and deeper fall as the economy had to adjust not only to the inevitable rebalancing of demand away from construction but also to the decline in world demand” (Honohan, 2010).

We can see that the Celtic Tiger period in Ireland fomented a number of favourable conditions for creating a housing bubble in Ireland: investment from EU Structural Funds, foreign investment that resulted from low taxes and loosened regulations, an export-oriented economy, a rapidly increasing population and workforce, and cheap

credit offered by Irish banks to facilitate the rising demand for property and housing construction. Taken together, “the combination of higher population, higher income and lower actual and especially prospective mortgage interest rates provided a straightforward upward shift in the willingness and ability to pay for housing” (Honohan, 2010).

The physical results of the demise of the Celtic Tiger and overbuilding could be seen throughout Ireland in the form of ‘ghost estates’. A ghost estate can be defined as a development of 10 or more houses where 50% of units are either vacant or under construction. In a study conducted by Rob Kitchin (2010), he and his team found 620 such sites that were begun after 2005, using the above definition. This included, “19,262 units, 11,670 of which are vacant and 3,823 are under- construction” (Kitchin et al., 2010). Of these estates, there were 86 with more than 50 homes and 252 estates with between 21 and 50 homes.

These ghost estates can be found in every county of Ireland, with some counties containing more than others. By county, when standardized per 1,000 head of population, some of the highest numbers can be found in Leitrim County, which has one of the highest ghost estates per 1,000 people, with 21, while Roscommon by comparison has 35 per 1,000 person (Kitchin et al., 2010). While it may be argued that ghost estates near large urban areas will quickly be sold, ghost estates in counties with less fundamental demand will not fare as well. It is telling that counties with some of the highest numbers of ghost estates (Leitrim, Roscommon, Longford) are also some of the least populated

western counties, and have received low grading in a report by An Taisce (The National Trust for Ireland) on planning decisions made before the crisis (An Taisce, 2012).

5.2.3 Housing Crisis and Planning

To appreciate the connection between the housing crisis and the planning system, it is useful to understand how local authorities' behaviour contributed to an oversupply of housing during the Celtic Tiger era. There have been a number of official reports and inquiries into the effectiveness of the Irish planning system before and since the housing crisis, and here a brief description will be given of two prominent reports, followed by an analysis of the relationship between planning and the housing crisis.

First, the Mahon Tribunal was established by the Irish national government in 1997 as a public inquiry into allegations of corruption in the planning system. It ended in 2012 as the longest and most expensive public inquiry in Ireland's history and was presided over Judge Mahon, its namesake. The Tribunal found varying amounts of low-level patronage and cronyism in Irish planning: finding 11 local councilors to be held accountable for corruption, five of which had directly received inappropriate payments for planning decisions (Mahon, 2012).

Among the Mahon Tribunal's recommendations was the creation of a new and independent planning regulator that could give direction to regional planning authorities and local authorities. The Tribunal had also found that recent changes to the planning system had, "resulted in an over-centralisation of power in the hands of the minister for the environment." (Carroll, 2012).

One issue that the Mahon Tribunal speaks to specifically that is useful for this analysis is the ease with which corruption can spread in the discretionary governance model that is practiced in Ireland. As mentioned previously, the discretionary model allows local councilors to have final say over planning policy and decisions, rather than it being a regulatory-based exercise based on technical merits. As such, local politicians have full authority over planning decisions, and are not required to implement the advice given by staff. While there are professional ethical standards that apply to the staff of local authorities that legally binds them to not take on work where they may have a conflicting interest, councilors are not restricted within the same legal bounds (Kitchin et al., 2010). Indeed, it has been reported that many councilors ‘double job’ as planning consultants.

Second, An Taisce, the National Trust for Ireland, published a report in April 2012 summarizing its investigation into the planning system during the Celtic Tiger era. The report graded each local authority based on criteria that included: amount of over-zoning, decisions reversed by An Pleanala (the national board of planning appeals), and the percentage of one-off houses permitted as a percentage of all planning permissions (An Taisce, 2012). The report found that none of the counties in Ireland could be given above a C grade, while finding that some counties such as Donegal and Roscommon were particularly serious offenders and now have large surpluses of housing stock in their jurisdictions.

The Mahon Tribunal is a significant step forward in creating accountability in the Irish planning system, and reveals the extent to which the informal institutions, the ‘way of

doing things' is embedded. For this thesis, the Mahon Tribunal is a glimpse into the complex informal rules of negotiation and exchange in the Irish planning system. The impression a reader is left with is that the informal constraints are deeply entrenched and are difficult to change. The An Taisce Report provides a broader context for how these planning decisions were being made, providing many examples of local councilors' being overturned by An Pleanála due to the questionable merit of those planning decisions.

The importance of having a strong National Spatial Strategy and Regional Planning Guidelines becomes apparent in the wake of the housing crisis. These policy documents were meant to guide development based on an evidence-based approach to planning. Spatially, these documents attempted to direct growth toward gateway and hub areas that could accommodate growth more efficiently. However, “planning, spatial strategies, housing need, and tax incentive schemes were overseen by a range of agencies and were rarely considered contextually or as being interdependent” (Kitchin et al., 2010). This problem was especially pronounced given the unchanged local governance structure of Ireland. With 34 county and city councils and 49 town councils all performing planning functions—none of which have powers of local taxation—planning occurred in a piecemeal manner. Because each local authority cannot raise capital, they competed for development levies and commercial rates that resulted from new development, each pursuing its own aggressive pro-growth policy (An Taisce, 2012).

A lack of coordinated efforts at the local and national levels made it extremely challenging for planning authorities in Ireland to purposefully cope with the surge of

demographic and economic pressures taking place at the end of the Celtic Tiger period (Kitchin et al., 2010). In turn, the construction rate of houses became divorced from the demand for housing. For example, between 1996 and 2006, 553,267 housing units were built, while households (a household can be defined as comprising, “either one person living alone or a group of people (not necessarily related) living at the same address with common housekeeping arrangements - that is, “sharing at least one meal a day or sharing a living room or sitting room”) grew by 346,400 during that same period (Central Statistics Office, 2011; Kitchin et al., 2010). In plainer language, the rate of household formation was not keeping pace with the rate of housing unit construction. Throughout this period the vacancy rate rose: 8.5% in 1996, 9.8% in 2002, and 15% in 2006 (Kitchin et al., 2010).

Councilors in the local authorities have the sole responsibility for zoning land. The National Spatial Strategy was meant to guide where and how much development they could accommodate in their respective counties, which would be implemented more precisely by Regional Planning Guidelines. In fact, the National Spatial Strategy asserts that the supply of land must be in line with housing need and require, “strategic reservation of land through the development plan process, coupled with ensuring timely and sequential release of land, to avoid delays in the availability and servicing of land on the one hand and *premature release of zoned land on the other*” [emphasis added] (Department of the Environment, Heritage & Local Government, 2002). However, as noted in the case study below, there was no legal obligation for councilors to follow Regional Planning Guidelines (An Taisce, 2012). The end result was a lack of effective

checks and balances that could curb excessive zoning and permissions that were being given for new development.

Zoning agricultural land as residential is a profitable enterprise during a construction boom because it inflates the lands market value artificially. Developers hungry for a share of the housing construction boom could buy large tracts of land with cheap credit and sell newly built homes for an immediate profit. At the onset of the housing crisis in 2008, Ireland had 42,000 hectares of primarily greenfield (ie. farmland) land zoned for residential development: enough to accommodate a doubling of its population to roughly 8 million people (An Taisce, 2012).

Of equal importance to the amount of land zoned for residential use is the location of the land that is zoned. In the National Spatial Strategy - Outlook and Review 2010, it is confirmed by officials that development in Ireland had become 'more dispersed and fragmented' during the Celtic Tiger years, increasing commute times and proliferating 'bedroom communities' across rural areas (Department of the Environment, Heritage & Local Government, 2010a). This type of development sprawl is at odds with the goals of the NSS as well as broader notions of sustainable development. Ireland has become the second most oil dependent country for transportation in the EU per capita, with 73% of all journeys in Ireland made by car in 2008 (An Taisce, 2012).

National and regional planning policies were not enough to act as an effective brake on the oversupply of housing being produced. As the National Trust for Ireland notes,

“national policies were systematically ignored by councils in framing settlement plans and in discharging their development management functions” (An Taisce, 2012). The ways in which national and regional policies were ignored by local authorities will be elaborated on in the case study of *McEvoy and Smith v Meath County Council* below.

More generally, it appears as though there were just too many parties in Ireland that had a vested interest in seeing the housing bubble continue to inflate. As presented earlier, local and central governments benefited from direct and indirect taxes resulting from growth; developers made large profits constructing residential homes in a laissez-faire planning environment; the general population that owned homes was gaining tremendous value in their assets; many speculators were making profits from the rising property values; and, those in the construction sector were benefiting from a groundswell of well-paying jobs. Indeed, it was in very few people’s interest to see a slowdown of the housing boom that resulted from the rise of the Celtic Tiger.

5.3 Case Study: *McEvoy and Smith v Meath County Council*

Throughout the life of the Planning and Development Act of 2000, the requirement for local authorities to conform to policies in the Regional Planning Guidelines was essentially optional, allowing county councils to ignore regional, and by extension national, spatial planning goals. *McEvoy and Smith v. Meath County Council* sheds light on how local authorities were able to legally disregard the spatial planning priorities of higher tier governments. It was found that local authorities were only required to ‘have

regard' for Regional Planning Guidelines in their Development Plans, rather than strictly comply with them.

In order to understand the relationship between Development Plans and Regional Planning Guidelines, a case study of *McEvoy and Smith v. Meath County Council* is presented below. The case study focuses on the contribution that *McEvoy* provides to our understanding of the language 'have regard' in Section 27.1 of the Planning and Development Act of 2000, and its interpretation by local authorities.

In 1999, the Department of the Environment and Local Government published Strategic Planning Guidelines for the Greater Dublin Area. At the time, the Strategic Planning Guidelines were unique in Ireland. The aim of these Guidelines was to provide a high level planning framework for all of the County Development Plans in the area, providing a big picture vision for land use and transportation in the region.

Following the implementation of the Planning and Development Act of 2000 in 2001, the Strategic Planning Guidelines were renamed Regional Planning Guidelines, as part of the Act's mandate to require all regions of Ireland to have their own Guidelines. Later that year, Meath Council adopted the Meath County Development Plan.

After its adoption in 2001, the Meath County Development Plan was appealed and brought before Plenary Summons court (in Ireland, this type of court is used in civil law when there is a dispute between parties where the amount of the Plaintiff's claim is not

easy to calculate (Citizens Information Board, 2008). The judicial review was initiated by Kildare County Council member Mr. McEvoy and of An Taische (National Trust for Ireland) chairman Mr. Smith, and was presided over by Mr. Justice Quirke. Planning documents, legislation, and expert testimony were all used as evidence in the case. Mr. McEvoy and Mr. Smith charged that the Meath County Development Plan failed to properly comply with the Regional Planning Guidelines, as was required by law. As a result, they sought to have the Plan found void (Smith & McEvoy -v- Meath County Council, 2003).

McEvoy and Smith presented Sections 17 to 27 of the Planning and Development Act of 2000 as evidence of their claim. It was important to acknowledge that Dublin's Strategic Planning Guidelines are one and the same as Regional Planning Guidelines. Due to the timing of the Meath County Development Plan's adoption, they point to Section 21 (4) of the Act states that, "the strategic planning guidelines for the greater Dublin area... Published on 25th March, 1999, shall have effect as if made under this Part" (Smith & McEvoy -v- Meath County Council, 2003). This is relevant for their argument because it allows for the Strategic Planning Guidelines to be considered as equal documents to Regional Planning Guidelines.

McEvoy and Smith hinged their argument on their interpretation of Section 27 (1) of the Act, which states that, "A planning authority shall have regard to any regional planning guidelines in force for its area when making and adopting a development plan" (Smith & McEvoy -v- Meath County Council, 2003). Their argument is that Meath Council had a

statutory obligation to have regard for the Guidelines and failed to do so, rendering the Meath County Development Plan void.

During a comprehensive review of the Guidelines by Justice Quirke, a few important aspects were highlighted. He noted that the Guidelines are informed by principles of sustainable development, which are, “consistent with European policy emanating from the European Spatial Development Perspective” (McEvoy & Smith -v- Meath County Council, 2002). One such principle used was in the designation of “development centres” in the Hinterland Areas, with a distinction being made between primary centres and secondary centres. Development outside of these centres was strictly limited by the Guidelines, only allowing for “local needs” to prevail. Development centres were created as areas of growth so that these towns would not become bedroom communities for the Greater Dublin Area.

In reviewing the Meath County Development Plan, Justice Quirke notes that the Meath County Development Plan does take into consideration the Regional Planning Guidelines. He notes that, “[t]hese Guidelines, published in May 1999 and revised in April 2000 have profound implications for the types of policies to be framed in this development plan and for the long term future of the County” (McEvoy & Smith -v- Meath County Council, 2002). Indeed the Meath County Development Plan 2001 sets out in considerable detail how it will conform to the Guidelines. It concludes that, “these guidelines have been formally adopted by Government and given statutory recognition in impending physical planning legislation. It is intended therefore that this development

plan should set itself the task of implementing the guidelines as they apply to County Meath”. (Meath County Council, 2001).

The review also noted that the Appendix of the Meath County Development Plan contains 48 recommendations on how to implement the Guidelines for local authorities. A number of the recommendations deal with the zoning of land, one of which stated that the amount of zoned lands, “... should be received in the light of the requirements of the strategy.” (Meath County Council, 2001). This section illustrates the depth of understanding of the Guidelines’ policies and how they should inform the scale and types of zoning that could be used. In addition, Recommendation 28 states that the provision of zoned land outside of the development centres should only be made in light of local needs.

Justice Quirke then reviewed evidence with the court, analyzing the minutes of over 50 meetings that dealt with the creation of the Meath Plan and were attended by councilors. Of particular interest for this case study were the electoral area meetings attended by elected officials and other staff, which were used to look at the specifics of the Meath Plan. In the minutes of those meetings, Justice Quirke found that there was a large number of applications for residential zoning that were decided on with no mention of the Guidelines (McEvoy & Smith -v- Meath County Council, 2002). One witness—Mr. Finlay—suggested during court proceedings that, “most land zoning decisions made at these meetings appear to have been influenced more by pressure and lobbying exerted by interested parties (such as local landowners) than by regional or other planning

considerations” (McEvoy & Smith -v- Meath County Council, 2002). Indeed, in analyzing the minutes of those meetings closely, not only was this confirmed by the court, but it was further noted that none of the applications discussed had been influenced in any way by the Guidelines.

A number of expert witnesses were brought to court to shed light on the meaning of the planning documents and their role in the creation of the Meath County Development Plan. Foremost among witnesses was staff from different levels of government that had briefed Meath Council on technical considerations of the Meath Plan. Each witness stated that they had informed the Council on many occasions of the significance of the Regional Planning Guidelines. Joseph Fahy, the senior engineer in the Planning Department of Meath County Council explained that, “at all stages of the process which led to the adoption of the Plan, he [Fahy] had informed the elected members of the Council of the nature and significance of the Guidelines” (McEvoy & Smith -v- Meath County Council, 2002).

An important aspect of *McEvoy and Smith v. Meath County Council* was the study of the phrase “...have regard to...”. Prior court cases in Ireland where similar types of provisions had been considered were reviewed, as well as the meaning of the phrase itself. In his ruling, Justice Quirke used the Oxford Dictionary (1995) definition of “regard”, which is, “give heed to; take into account; let one's course be affected by; look upon or contemplate mentally in a specified way... have relation to; have some connection with... attention or care” (McEvoy & Smith -v- Meath County Council, 2002).

Notably, Justice Quirke interpreted that having “regard” for something is an action that is permissive in its nature. In concluding, he found that, “the obligation imposed upon the Respondent [Meath County Council] by s. 27 (1) of the Act of 2002 to "have regard to" the Guidelines when making and adopting its development plan does not require it rigidly or "slavishly" to comply with the Guidelines' recommendations or even necessarily to fully adopt the strategy and policies outlined therein.” (McEvoy & Smith -v- Meath County Council, 2002). In other words, to ‘have regard’ in this sense means that the Guidelines only need to be considered in developing the County Development Plan, and that the Plan does not necessarily have to be bound by the provisions of the Guidelines.

Finally, Justice Quirke ended the proceeding by stating that he was satisfied that the elected officials of Meath County Council were fully informed of the nature and existence of the Guidelines and their significance in creating the Meath Plan. In reviewing whether the Council gave reasonable consideration to the Guidelines, Justice Quirke concludes with:

The evidence adduced at the hearing of these proceedings strongly suggests that in a number of respects the Meath Plan does not comply with the Guidelines and indeed that in some of its provisions it has substantially departed from the Guidelines' policies and objectives. Navan is the only "development centre" identified in the Guidelines for which any growth other than that for "local needs" is recommended. Nonetheless elected members at electoral area meetings have decided to zone large amounts of land for residential purposes in dozens of small

towns in a manner which appears to be quite inconsistent with the recommendations of the Guidelines. As I have already indicated none of these decisions appear to have been made in the context or against the background of any consideration of the Guidelines. In many instances "local interests" appear to have overcome the concept of "local needs" (Smith & McEvoy -v- Meath County Council (2003).

Justice Quirke found that Meath County Council had given reasonable consideration to the Guidelines pursuant to their obligation under Section 27 (1) of the Act of 2000 to “have regard to” the Guidelines. However, in his judgment he noted that this level of consideration, “gives rise to concern (and indeed unease)” (Smith & McEvoy -v- Meath County Council, 2003).

The case of *McEvoy and Smith v Meath County Council* presents a snapshot of the Irish planning system as it transitions toward a strategic spatial planning system. Regional Planning Guidelines in such a system are intended to be a critical link in policy that joins up strategic planning goals with local implementation. While the evolution of regional planning policy and governance had built momentum in Ireland prior to this point, this case was an early test of the planning systems ability to coordinate planning policy between the national, regional, and local levels.

What is clear from this case study is: following the creation of Regional Planning Guidelines, a new National Spatial Strategy, and a regulatory framework to support them,

local authorities continued to make planning decisions in the same manner as they always had, following a familiar path in the older discretionary model of planning. Despite significant changes to the formal institutions of planning policy in Ireland, the informal constraints and ‘ways of doing things’ remain highly influential. It also makes clear that moving from the discretionary model of planning—which gives freedom of decision to councilors and hence more room for informal decision making—to a more regulatory/technical approach that relies on strong formal institutions is a difficult undertaking. As Justice Quicke notes, councilors “decided to zone large amounts of land for residential purposes in dozens of small towns in a manner which appears to be quite inconsistent with the recommendations of the Guidelines” (Smith & McEvoy -v- Meath County Council, 2003).

This case study bolsters the argument of this thesis that the changes made to the formal institutions of the Irish planning system have not been strong enough to challenge the rules and culture of the informal institutions, bringing into question the legitimacy of the new policy framework. While the principles and goals of the Regional Planning Guidelines and National Spatial Strategy are commendable, they did not have the legal strength and enforcement that was necessary to implement them in the face of long standing informal constraints. While many of the formal institutions of planning have progressed in their substance toward a European spatial planning paradigm, the informal institutions of Irish planning remain strong.

6. Regional Planning Guidelines Reconsidered

6.1 The Planning and Development Amendment Act, 2010

This section of the paper will look at the changes found in the Planning and Development Amendment Act 2010, post-Celtic Tiger, followed by a discussion of their implications for the future of Irish planning and regional planning policy. From the analysis and case study presented earlier, it is clear that Ireland has not participated in the exercise of creating regional planning policies and agencies with strong conviction. This raises doubts as to the Irish planning system's ability to challenge the path of its informal institutions: planning decisions made locally that fail to take into account wider strategic direction and evidence-based planning.

The Planning and Development Amendment Act 2010 was created to update and strengthen The Planning and Development Act of 2000 after the collapse of the Celtic Tiger housing bubble. Its two overriding goals were: to create a stronger statutory link between the National Spatial Strategy and Regional Planning Guidelines; and, provide for a closer alignment between the NSS, RPG's and local Development Plans (Department of the Environment, Heritage & Local Government, 2010). As noted in the case study of *McEvoy and Smith v. Meath County Council*, a major flaw of the Act of 2000 was that County Councils were simply required to 'have regard to' Regional Planning Guidelines when creating and adopting their County Development Plans. This allowed for inconsistency between policy and practice, stifling attempts at coordinated spatial

planning initiatives. After the housing crisis, the Amendment Act of 2010 attempted to strengthen regional authorities and their Regional Planning Guidelines.

Two changes to the Amendment Act of 2010 are relevant for this paper: the introduction of a “core strategy” in County Development Plans; and, changing Section 27 (1) so that the requirement of local authorities to “have regard to” Regional Planning Guidelines is more stringent. Each change was created to curb the excessive zoning that took place during the Celtic Tiger era and ensure that RPG’s are followed more closely.

The Planning and Development Amendment Act 2010 added the requirement of developing a “core strategy” for local authorities in their development plans (Hayes Solicitors, 2010). This “core strategy” must contain: population growth for the county as derived from the governing Regional Planning Guidelines; the amount of housing development needed, derived from the population growth trend; the amount of zoned land allowable given the population growth and housing needs; and the distribution of the zoned land (Department of the Environment, Heritage & Local Government, 2010).

The purpose of the “core strategy” is to ensure that County Development Plans implement the goals of Regional Planning Guidelines and by extension, the National Spatial Strategy. Central to this objective is that local authorities must provide evidence-based rationale for why land is being zoned, a basis for its scale and location, and justification for development that is outside of areas serviced by water and wastewater (Department of the Environment, Heritage & Local Government, 2010). After the

updated Regional Planning Guidelines were adopted in 2010, a mechanism in the Amendment Act 2010 triggers the requirement that all Development Plans must include core strategies. If the Development Plan is still in effect for another two years, it must include the core strategy by way of amendment. In doing so, Development Plans must demonstrate that the population levels and zoning requirements that they propose are consistent with the relevant Regional Planning Guidelines (Department of the Environment, Heritage & Local Government, 2010).

In amending the Planning and Development Act 2000, the Amendment Act of 2010 changes and adds a number of Sections meant to implement and monitor core strategies. Perhaps most importantly, Section 10 (1) previously stated in the Act of 2000:

A development plan shall set out an overall strategy for the proper planning and sustainable development of the area of the development plan and shall consist of a written statement and a plan or plans indicating the development objectives for the area in question.

It is amended by adding the following subsection:

(1A) The written statement referred to in subsection (1) shall include a core strategy which shows that the development objectives in the development plan are consistent, as far as practicable, with national and regional development objectives set out in the National Spatial Strategy and regional planning guidelines (Planning and Development (Amendment) Act 2010).

The core strategy will benefit the planning system in Ireland by enabling a prioritization of public resources. This will mean that hard infrastructure such as sewers and roads, as well as soft infrastructure like schools and public spaces, can be targeted to go where they are needed most. This is a chief concern when attempting to manage urban sprawl, as it can stretch public resources thin by having to service areas that are far from existing infrastructure. This was found to be a common characteristic of the Celtic Tiger era, where lands outside of towns and development areas were zoned with little consideration for how they would be serviced or connected efficiently.

In terms of creating stricter compliance with Regional Planning Guidelines and the National Spatial Strategy, there is a legitimate concern to be raised with respect to Section 10.1.A (core strategies). Core strategies are meant to be the new bulwark against excessive zoning and opaque planning decisions, yet subsection 1A contains a caveat that the Development Plan shall be consistent with RPG's and the NSS "as far as practicable". This undermines the intent of core strategies because it allows for a similarly lenient interpretation of Regional Planning Guidelines that the "have regard" language of Section 27 (1) created. The permissive nature of the phrase "as far as practicable", like the phrase "have regard", implies that it is not a matter of strict compliance, but rather up to the local Council to decide on whether a core strategy is consistent with RPG's.

Perhaps one of the most important aspects of the Planning and Development Amendment Act 2010 is that it changes the statutory requirements for Development Plans to follow Regional Planning Guidelines. Section 27 (1) of the Planning and Development Act of 2000 created a weak link between Development Plans and Regional Planning Guidelines,

as was demonstrated in *McEvoy and Smith v. Meath County Council*. The court in that case found that the requirement that Development Plans must only “have regard to” Regional Planning Guidelines meant that local authorities only needed to be aware of the RPG’s, and not necessarily follow them. As a result, Section 27 (1) of the Amendment Act of 2010 substitutes:

A planning authority shall have regard to any regional planning guidelines in force for its area when making and adopting a development plan.

With:

A planning authority shall ensure, when making a development plan or a local area plan, that the plan is consistent with any regional planning guidelines in force for its area.

This is a significant change for the Planning and Development Act. While it is a small change in wording, the phrase “is consistent with”, is far more binding than “shall have regard to”. During a Parliamentary debate on the changes, it is noted by Deputy Joanna Tuffy (2010) while speaking against the changes at the Select Committee on the Environment, Heritage and Local Government Debate that, “One can say ‘have regard to’ and people can make up their own mind but ‘consistent with’ is much more demanding.”

The amendment of Section 27 (1) carries important implications for the relevance of Regional Planning Guidelines. It now more effectively acts as a link between the goals of

the National Spatial Strategy and their implementation at the County Development Plan level. Whereas County Development Plans previously did not have to follow the directives of regional guidelines, they are now required to be consistent. As Deputy Ciarán Cuffe said in response to Deputy Tuffey's concerns during Parliamentary debate, "in a sense, we are strengthening the status of the regional planning guidelines by providing that a local area plan and a county or city development plan must be consistent with the regional planning guidelines in force for a given area to achieve coherence between the hierarchy of plans" (Ciarán Cuffe, 2010).

7. Europeanization and Path Dependence

7.1 To 'have regard': A failure to change the planning system

The Regional Planning Guidelines and the National Spatial Strategy adopt the verbiage of the ESDP and European spatial planning concepts, but the laws that support these documents in Ireland were not given the footing needed to successfully implement them. For this paper, it is conceived that these formal planning policies required a legal foundation and an implementation strategy that were robust enough to counteract the embedded traditions and culture of the Irish planning system. Instead, the laws that supported planning policy in Ireland allowed local authorities to follow the familiar path of land-use planning that provided the most incentive, circumventing the formal policy change towards Europeanization.

Europeanization for Radaelli (2004) occurs via three processes: a) construction, b) diffusion and c) institutionalization of formal and informal rules. This implies that formal and informal rules are created, disseminated throughout the system, and then internalized to the point of institutionalization. This is achieved when “shared beliefs and norms which are first defined and consolidated in the EU policy process [are] then incorporated in the logic of domestic (national and sub-national) discourse, political structures and public policies” (Radaelli, 2004). The argument in this thesis provides that construction of formal European planning rules and policies did occur, and it can be argued that diffusion also occurred: actors at the very least considered these new policies and rules during their implementation. However, the informal constraints and ways of doing things were not considered in the EU policy process or incorporated into the logic of Irish national discourse. Given the divergence between Irish planning practices and European spatial planning, it is surprising that this notion was not given more consideration in the creation of new formal institutions.

This thesis illustrates the institutional challenges of implementing European spatial planning at the sub-national level. A specific example of institutional resistance to change has been provided: Section 27 (1) of the Planning and Development Act of 2000. This section of the Act of 2000 is a valuable focal point for understanding the challenge of implementing spatial planning practices in Ireland. It allowed local authorities to dismiss Regional Planning Guidelines and by proxy the National Spatial Strategy during an historic housing boom. The 2001 court case of *McEvoy and Smith v Meath County Council* showed that the requirement of planning authorities to “have regard” for

Regional Planning Guidelines meant that local authorities were not bound to follow the policies laid out in the Guidelines and by extension the NSS.

The appellants McEvoy and Smith charged that the Meath County Council did not consider its Regional Planning Guidelines when creating the 2001 Meath County Development Plan. While the presiding judge pointed out that the Meath plan did have wording on how it would conform to the guidelines, he noted that, “in a number of respects the Meath Plan does not comply with the Guidelines and indeed ... in some of its provisions it has substantially departed from the Guidelines’ policies and objectives.... As I have already indicated none of these decisions appear to have been made in the context or against the background of any consideration of the Guidelines” (Smith & McEvoy -v- Meath County Council, 2003). The language contained in Section 27 (1) of the Planning and Development Act of 2000 provided the formal ability for the Meath County Development Plan and others like it to be created in a policy vacuum. With no required links to higher order planning goals or regional considerations, this demonstrates how formal policy changes toward European spatial planning was stopped from being integrated into Irish planning practices.

Europeanization as defined by Radaelli (2004) points to a coherence that must be formed between formal and informal institutions in order for true Europeanization to occur. A close reading of Radaelli reveals in this context that the construction and diffusion stages of Europeanization are part of what is described as being, “consolidated in the EU policy process”. Using Douglass North’s (1991) interpretation of institutions, these first two

stages reflect the Europeanization of formal institutions, which would then be followed by the Europeanization of informal institutions, in other words being, “incorporated in the logic of domestic discourse”. Radaelli implies in this definition that both formal and informal rules go through these stages at the same time; however this seems to be an idealized scenario. As North (1990) tells us, “although formal rules may change overnight as the result of political or judicial decisions, informal restraints embodied in customs, traditions, and codes of conduct are much more impervious to deliberate policies” (North, 1990).

The formal rules that are exhibited in the McEvoy case were not created with the strength necessary to overcome the customs, traditions, and codes of conduct in the Irish planning system. This limited whatever progress could be achieved by incorporating European spatial planning concepts into the Irish planning system.

7.2 Path Dependency in Irish regional planning policy

Following a review of the Europeanization of the planning system in Ireland, it appears that the process is incomplete. It is argued in this paper that this is a result of the divergent paths that the formal and informal institutions of the planning system have taken. While the formal institutions have evolved into European-influenced spatial planning policies and laws, the informal institutions remain resistant to change.

Through the years of developing formal regional policy, the growth and influence of informal institutions in Irish planning was shown in three ways in this paper. First,

regional policy development that began with the ERDF in 1975 created an incentive for the national Irish government to build regional policies that would facilitate the highest possible amount of money from Structural Funds. In each round of negotiation, the focus became more explicitly on securing those funds, even while European Commission requirements for greater use of regional governance and policies became stricter.

Second, the case study of *McEvoy* demonstrates that while the preceding decades-long evolution of regional policy had led to formal rules such as Regional Planning Guidelines, the Planning and Development Act, 2000 and the National Spatial Strategy, the traditional ways of doing things still guided decision making in the planning system (North, 1990). Even though the Regional Planning Guidelines were well known as the new legislative tool for taking a more strategic approach to planning at the time of *McEvoy*, “none of [the planning] decisions appear to have been made in the context or against the background of any consideration of the Guidelines” (Smith & McEvoy -v- Meath County Council, 2003). Councilors still acted in a manner consistent with the informal routines of planning in Ireland.

Third, while the newer Planning and Amendment Act, 2010 clearly creates a stronger formal link between local plans and European-influenced spatial planning documents, it still does not address the strength of informal constraints in the Irish planning system. This is perhaps the most salient issue for this paper, as the housing crisis represented an opportunity to address the informal institutional processes that have been stubbornly

resistant to change. The housing crisis could have been the ‘critical juncture’ necessary to alter resilient institutional paths.

Further, while many individuals undoubtedly benefited through their skillful navigation of the informal planning system, as Douglass North (1990 p 95) says, “there is no implication that the skills acquired will result in increased social efficiency”. This was apparent during the Celtic Tiger era, where many people benefited from rapid housing construction that would lead to a collapsed economy.

The historical overview in the preceding sections offers a glimpse of the steps that were taken in the planning system in Ireland toward a European style of spatial planning. However the opportunities that were presented through the Europeanization process were only taken advantage in the construction of new formal institutions. While new regional authorities and regulations were created to oversee these formal institutions, regulations were not strong enough to counter the path dependency that kept informal institutions in place.

With the Europeanization of the formal institutions of the planning system, Ireland’s local planning authorities were presented an opportunity to become ‘joined-up’ with other levels of government. To move towards this model, local authorities had to become more integrated with the regional level of government and achieve better coordination of planning activity. This offered local authorities a chance to break away from the informal institutional path that incentivized support of embedded interests over local needs.

However as discussed in this paper, the local authorities were not statutorily required to follow Regional Planning Guidelines, and there was no incentive or enforcement that pushed them toward a new path of informal institutions that would be more closely aligned with new formal institutions.

The path dependency at the local authority level was paralleled by a further centralization of powers at the national government level. As noted in the Mahon Report, the circa 2000 changes in planning legislation allowed power to be more directly centralized in the Minister of Environment, Heritage and Local Government. The Minister, with the sole authority to block plans from being adopted by councils, became a crucial check on the successful integration of regional planning policy goals in county development plans. With so many local authorities to monitor and a number of other roles to be fulfilled as Minister, this check on local authorities was compromised. In a sense, this became an indication of another informal constraint further embedding itself: the distrust of local authorities in favor of more centralized control.

While regional planning policy has had many decades to develop, it has not reached a point where it is able to influence the path of informal institutions in Irish planning. Local authorities continued to work within the narrow confines of traditional Irish land-use planning, while the path of the formal rules of the planning system moves further towards a European spatial planning paradigm.

8. Conclusion

This paper has used the theoretical frameworks of Europeanization and historical institutionalism to analyze the paths that the institutions of the Irish planning system have taken over time to see if it has successfully moved toward European spatial planning. The focus has been on the ability of the Regional Planning Guidelines to provide a link between the European-influenced National Spatial Strategy and County Development Plans where local authorities implement planning policy. It is found that this crucial link had been weak during an important phase of Ireland's economic development, pushing the institutions of the Irish planning system further along their established path dependencies. Importantly, a potential catalyst for change—the 2007 housing crisis—presented the planning system with the opportunity to make meaningful legislative reform; a chance to nudge informal institutional paths closer to European spatial planning principles.

I contend that while legislative changes have come in the form of the Planning and Development Amendment Act 2010, it has been a further incremental step on the continuing path of formal institutions only. Ireland's informal planning constraints have resisted the push toward a more comprehensive and far-reaching spatial planning system. While Ireland adopted the verbiage and governance framework that distinguishes modern spatial planning, those elements lack strong legislation, incentives and enforcement to successfully integrate new policy. As determined through this thesis, strong legislation and implementation were needed to counteract the embedded influence of the informal institutions in the Irish planning system. During the housing crisis, the regional level of

planning and governance remained weak and without binding arrangements between itself and other levels of government.

As shown in the case study of *McEvoy and Smith v Meath County Council*, the Planning and Development Act of 2000 had loose requirements for interpreting Regional Planning Guidelines during the Celtic Tiger era. It appears as though this was a weak formal link in the chain of implementing spatial planning policy. While the national government created an ambitious National Spatial Strategy, the limitations of its implementation via Regional Planning Guidelines allowed for local authorities to go on granting zoning changes and permissions as they wished, uninhibited by the constraints of population projections, consideration for infrastructure provision, and overall good planning practice.

We see that in the creation of the National Spatial Strategy, a familiar path for Ireland had been taken where the primary goal was not as stated, to fix “regional imbalance”, but rather to secure maximum financing from Structural Funds. Ireland appears to have followed a consistent path in relation to adopting European spatial planning concepts, in particular the development of regional policies. Ireland took a first step toward the Europeanization of its planning system through the construction of a new policy framework, but failed to implement it in a way that addresses long-standing practices and customs within the system. This effort has not only resulted in a partial institutionalization of European practices in Irish planning, it has created inconsistencies

in the goals and policies of the planning authority hierarchy, helping overdevelopment of housing to occur with unfortunate results.

This paper looked closely at the path of formal institutions in the Irish planning system. What is found is a divergence of path dependencies between the formal and informal institutions where the evolution of regional planning laws, regulations, and guidelines has progressed while older informal constraints—culture, traditions, routines—have continued to have a strong influence on the planning process. This leaves many questions to be further explored. The nature and extent of the informal institutions in Irish planning is a large topic that is outside the scope of this paper, but needs to be addressed further. As Douglass North (1990) reminds us, “it is the complex interaction of formal rules and informal constraints, together with the way they are enforced, that shapes our daily living and directs us in the mundane... activities that dominate our lives” (North, 1990). The historical institutional framework provides a useful model of analysis, and could provide a more complete understanding of the relationship between formal and informal constraints in Irish planning and their effects on economic performance.

A conclusion that can be drawn via an analysis of Europeanization using North’s (1990) definition of formal and informal institutions is that perhaps the Europeanization of national entities in general relies too heavily on the notion of instigating change via formal institutions. North’s body of work frequently suggests that informal institutions are often deeply embedded, part of a larger culture, and not prone to quick change, even after ‘critical junctures’ and major upheavals in a country have occurred. Yet many of the

activities that attempt to foster European spatial planning principles rely on a top-down approach, either through funding mechanisms or policy guidelines. Less of an effort to date has been made on changing the attitudes and cultures of countries that may be less of a good fit for European practices and ways of doing things. Radaelli (2004) claims that formal and informal rules are, “first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public policies” (Radaelli, 2004). Perhaps this process has its priorities backwards. If EU policy is too far removed from the “logic of domestic discourse”, or informal institutions more generally, then they may have little hope of achieving their intended effect.

It also appears that the incremental evolution of regional policy as discussed earlier contributed to the tendency for power to be centralized while local authorities and regional agencies were kept weak. This certainly runs counter to the argument (Boyle, 2000) that regional governance as promoted via Structural Funds had a devolution effect on more centralized states. While creating a regional level of policy and governance architecture, Ireland's regions functionally remained as an expression of EU funds distribution. Their ability to work effectively in a planning capacity was hampered by weak legal footing, limited operational budgets, and an informal institutional culture that was resistant to change.

One critical issue that will have to be addressed if there is to be any substantive change in Irish planning will be implementation and enforcement. Policies can be as progressive

and as forward thinking as one can make them, but unless they can be realistically implemented and enforced (taking into consideration the realities of institutional cultures), they will be in danger of appearing illegitimate. While outside the scope of this thesis, this author is convinced that proper enforcement of strengthened and realistic planning policies is the only way to ensure that local authorities can be held accountable for the decisions that they make. Particularly when it is clear that it will take sustained energy and political will to implement a reform of the planning system, enforcement and implementation of existing policies becomes as necessary as creating new and better policy.

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