



c/o Anne Marie Casey
60 Derravaragh Road
Dublin
6W

www.irelandbrownfieldnetwork.com

info@irelandbrownfieldnetwork.com

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Our Ref: IBN0001/OH

NPF Submissions,
Forward Planning Section,
Department of Housing, Planning,
Community and Local Government,
Custom House,
Dublin D01 W6X0

Dear Sir or Madam,

RE: Draft National Planning Framework Ireland 2040 – Our Plan

The Ireland Brownfield Network (IBN) welcomes the publication of the draft National Planning Framework *Ireland 2040 Our Plan* and its inclusion of brownfield sites within its strategy for redevelopment. A target of 50% new housing on infill/brownfield in Dublin, Cork, Limerick, Waterford and Galway cities and suburbs, and 30% new housing on infill/brownfield elsewhere has been proposed.

The IBN was established in February 2012 by a collective of leading brownfield practitioners operating in various professions throughout Ireland. The IBN aims to encourage constructive dialogue and interaction amongst all those involved in the redevelopment of brownfield land and to promote the sustainable, appropriate and effective regeneration of brownfield sites throughout the island of Ireland. The IBN has a membership of over 450 individuals representing academics, consultants, regulators, planners, land owners and developers.

The IBN welcomes the opportunity to provide input at this stage of the Plan in the form of the below submission on issues pertinent to brownfield redevelopment.

In order to successfully deliver brownfield redevelopment, legacy issues associated with brownfield sites need to be adequately understood and managed, and policies and systems adopted to facilitate and incentivise the redevelopment of under-utilised and under-valued land in a sustainable and environmentally sound manner.

The Strategic Environmental Assessment (SEA) Environmental Report prepared in support of the National Planning Framework states that:

“Harbour and port/dock development needs a specific policy that deals with brownfield/contaminated land issues.”

The SEA Environmental Report also states that *“The objectives under the draft NPF to utilise infill and brownfield sites in urban areas to accommodate housing means there is potential to excavate and generate significant levels of contaminated materials, particularly in areas with recent or historical industrial uses. Ireland has no hazardous waste landfill, and limited capacity in other available infrastructure. Just one landfill has the ability to take and process some contaminated land. This has implications for the levels of contaminated waste generated and whether excess waste would need to be exported”*.

The SEA Environmental Report further states that *“Whilst development on brownfield land is broadly positive insofar as it reduces the need for greenfield development which may be an important community/ social assets in such cities, there is potential to encounter contaminated material that could indirectly impact on Biodiversity, Flora and Fauna, Soils and Water through the remediation process. The volume and nature of the contamination will be an important factor to consider given the limited end-of-life solutions for some contaminated material.”*

Having considered the objectives and targets of the National Planning Framework; the points raised in the SEA Environmental Report and current brownfield redevelopment practice in Ireland, the following key challenges are highlighted:

- The absence from the Irish planning process of a formal brownfield land assessment and management regime for the majority of brownfield sites. Only sites licensed by the EPA are subject to appropriate assessment and management.
- A complex and lengthy waste licensing and permitting system applicable to the remediation and reuse of contaminated soils and groundwater and construction and demolition (C&D) waste.
- A lack of suitable waste infrastructure for managing contaminated soils and C&D waste and an over-reliance on the export of wastes out of Ireland.
- Limited application of recovery and reuse options for low-level contaminated soils and treated soils, compounded by the complex consenting process and limited application of End-of-Waste status to soils as defined in the Waste Framework Directive 2008/98/EC.

The above challenges are discussed in more detail as follows.

- **Absence of a formal brownfield land assessment and management regime**
There is no specific legislation governing the assessment and management of contaminated land in Ireland, unlike in other European countries. Whilst the Environmental Protection Agency (the EPA) has issued guidance on the assessment of ground and groundwater contamination for EPA licensed sites and produced guidance on the approach to risk assessment to be undertaken by local authorities for historic unregulated waste disposal sites, there is no formal contaminated land assessment and management regime in place

regarding the majority of brownfield sites being progressed through the planning process. This gap gives rise to uncertainties, inconsistencies and inadequacies in the manner in which brownfield sites are assessed and redeveloped which in turn could be exposing residents to unacceptable risks presented by land contamination. This absence of an appropriate regime is not limited to harbour and dock areas as suggested in the SEA Environmental Report of the NPF, but applies to all brownfield sites.

- **Complicated and lengthy waste licensing and permitting system**

Currently in Ireland, the EPA licensing process applicable to certain remediation and recovery projects is complex, lengthy and uncertain. It can take anywhere between 6 to 27 months to complete a licence application process and obtain a final decision. This process is a significant deterrent to developers and investors, and often results in the adoption of unsustainable and unnecessary 'dig and dump' approaches that adds costs to development projects and increases wastes to landfills.

- **Lack of waste infrastructure**

There is currently a critical issue in Ireland in terms of the availability of suitable waste infrastructure for the recovery and disposal of contaminated soils and construction and demolition (C&D) waste. As stated in the SEA Environment Report, *'just one landfill has the ability to take and process some contaminated land'* and there are few, if any alternative treatment and reuse options. This results in an over reliance on overseas shipments of waste for recovery or disposal which is not in line with the Waste Framework Directive principles for self-sufficiency and proximity. Further, 'dig & dump' either in Ireland or overseas is not a cost-effective waste management solution.

- **Lack of recovery and reuse options**

Due to the complex and lengthy consenting process for remediation projects, and the limited application of End-of-Waste status under the Waste Framework Directive, there have been few opportunities for the delivery of feasible remediation projects in Ireland in recent years. This issue is significantly impacting on the viability of redevelopment of brownfield sites. In particular, the badly needed high-density residential development of urban sites is being stifled by risks and uncertainties associated with the consenting process, and a lack of viable options to the unsustainable 'dig-and-dump'.

Article 6 of Waste Framework Directive 2008/98/EC and Part 3 Section 28 of S.I. No. 126 of 2011 states that *'certain specified waste shall cease to be waste when it has undergone a recovery, including recycling, operation and complies with specific criteria to be developed. The criteria shall include limit values for pollutants where necessary and shall take into account any possible adverse environmental effects of the substance or object'*. This

legislation can and should be applied to treated contaminated soils originating from brownfield site redevelopments.

To address the above outlined issues and successfully deliver the objectives and targets of the National Development Framework, the following specific recommendations are proposed:

- Early due diligence of brownfield sites should be carried out to identify and appreciate both the liabilities and opportunities pertaining to brownfield redevelopment. This will ensure adequate assessment of the risks posed by contamination as part of the consenting process.
- A review should be undertaken of the Irish planning process in relation to the assessment and management of brownfield land which lies outside the remit of the EPA i.e. unlicensed sites. This review should be followed by the implementation of necessary changes to the planning process to allow adequate and appropriate brownfield assessment and management. Specific training of planning authority personnel may be required as part of the implementation of the revised process.
- The Waste Framework Directive 2008/98/EC and S.I. No. 126 of 2011 Waste Directive Regulations 2011 need to be implemented, in particular, in relation to:
 - The development of criteria to facilitate the application of 'End-of-waste' status for certain types of contaminated soils (either treated or not treated).
 - The principles of self-sufficiency and proximity as set out in the Waste Framework Directive should be applied with treatment and reuse options encouraged rather than the current over-reliance on the export of contaminated soils. It should be noted that properly planned, designed and implemented remediation strategies should not either directly/indirectly impact on biodiversity, flora and fauna or soil and water, unlike that suggested in the SEA Environmental Report.
- Necessary changes to the current EPA licensing process will be required to encourage the remediation of brownfield sites and facilitate the application of end-of-waste status for contaminated and/or treated soils i.e. no longer considered waste as defined by the Waste Framework Directive and therefore not subject to waste legislation requirements. Case studies of other EU countries where this has been successfully implemented should be reviewed for guidance.

Finally, in order to address the above issues, it is recommended that an expert working group is established consisting of representatives from relevant Government Departments, the EPA, local authorities, the construction industry, professional bodies and the Ireland Brownfield Network. The working group would address the above issues and instigate the necessary changes to policy and procedures to allow the delivery of the objective and targets set out in the National Development Plan. Representatives of the IBN would welcome the opportunity to engage in this process and, considering its collective expert knowledge of this often complex subject matter, the IBN's engagement would represent a formidable resource to the delivery of cohesive and sustainable brownfield reuse policies.



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Should you have any queries or require further information in relation to the above please contact the undersigned. We would be grateful if an acknowledgement of receipt of this submission could be sent to: info@irelandbrownfieldnetwork.com

Yours sincerely

Olivia Holmes

On behalf of the

Ireland Brownfield Network (IBN)