



Office of the Planning Regulator

Quarter 4 of 2023

Activity Report



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

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Introduction

This is the sixteenth in a series of quarterly activity reports that the Office of the Planning Regulator (the OPR) will publish on its website as an overview of the nature and extent of its functions across its statutory mandate. These are:

- (i) evaluation of the statutory plans of the local government system;
- (ii) reviews and examinations of local authority systems and procedures used in the delivery of planning services to the public; and
- (iii) undertaking programmes relating to training, education, research and public awareness in relation to the benefits of planning.

Evaluation of Statutory Plans

The OPR is responsible for independently assessing city/county development plans and local area plans at three key stages: issues paper, draft plan and material alterations. The OPR also considers any proposed variations to existing city/county development plans or amendments to local area plans. OPR submissions may include recommendations, observations or advice.

In Q4 of 2023, 22 consultations on statutory plans opened for public consultation. These consultations related to: the draft Sligo County Development Plan 2024-2030; five variations to existing county development plans; and six issues papers for local area plans, three draft local area plans, six material alterations to draft local area plans and one amendment to an existing local area plan.

OPR Submissions on Statutory Plans

In Q4 2023, the OPR made 20 submissions to local authorities. Table 1 sets out a breakdown by plan-type.

Table 1: Submissions on Statutory Plans

Draft County Development Plans: <ul style="list-style-type: none"> • Draft County Donegal Development Plan 2024-2030 • Draft Sligo County Development Plan 2024-2030 	2
Variations to City/County Development Plans: <ul style="list-style-type: none"> • Variation No. 1 to the Wicklow County Development Plan 2022-2028 • Variation No. 1 to the Kilkenny City and County Development Plan 2021 • Variation No. 2 to the Dublin City Development Plan 2022-2028 • Variation No. 3 to the Dublin City Development Plan 2022-2028 • Variation No. 4 to the Dublin City Development Plan 2022-2028 	5
Issues Papers for Local Area Plans: <ul style="list-style-type: none"> • Issues Paper for the Kiltarnan-Glenamuck Local Area Plan 2024 • Issues Paper for the Portarlington Joint Local Area Plan 2024 • Issues Paper for the Newbridge Local Area Plan 2025-2031 • Issues Paper for the Mullingar Local Area Plan 2024-2030 • Issues Paper for the Carrick-on-Shannon Joint Local Area Plan 2024-2030 	5
Draft Local Area Plans: <ul style="list-style-type: none"> • Draft Adare Local Area Plan 2024-2030 • Draft Kenmare Municipal District Local Area Plan 2023-2029 • Draft Patrickswell Local Area Plan 2024-2030 • Draft Westport Local Area Plan 2023-2029 	4
Material Alterations to Local Area Plans: <ul style="list-style-type: none"> • Material Alterations to the Draft Athenry Local Area Plan 2023-2029 • Material Alterations to the Draft Clonmel Local Area Plan 2024-2030 • Material Alterations to the Draft Thurles Local Area Plan 2024-2030 • Material Alterations to the Draft Nenagh Local Area Plan 2024-2030 	4
<u>Total</u>	<u>20</u>

OPR Submissions by Regional Area

Local authorities are divided into three regional areas, represented by three regional assemblies: the Eastern and Midland Regional Assembly (EMRA), the Northern and Western Regional Assembly (NWRA) and the Southern Regional Assembly (SRA).

OPR submissions during Q4 2023 related to all Regional Assembly areas. Figure 1 shows the number of submissions made on consultations within each regional assembly area.

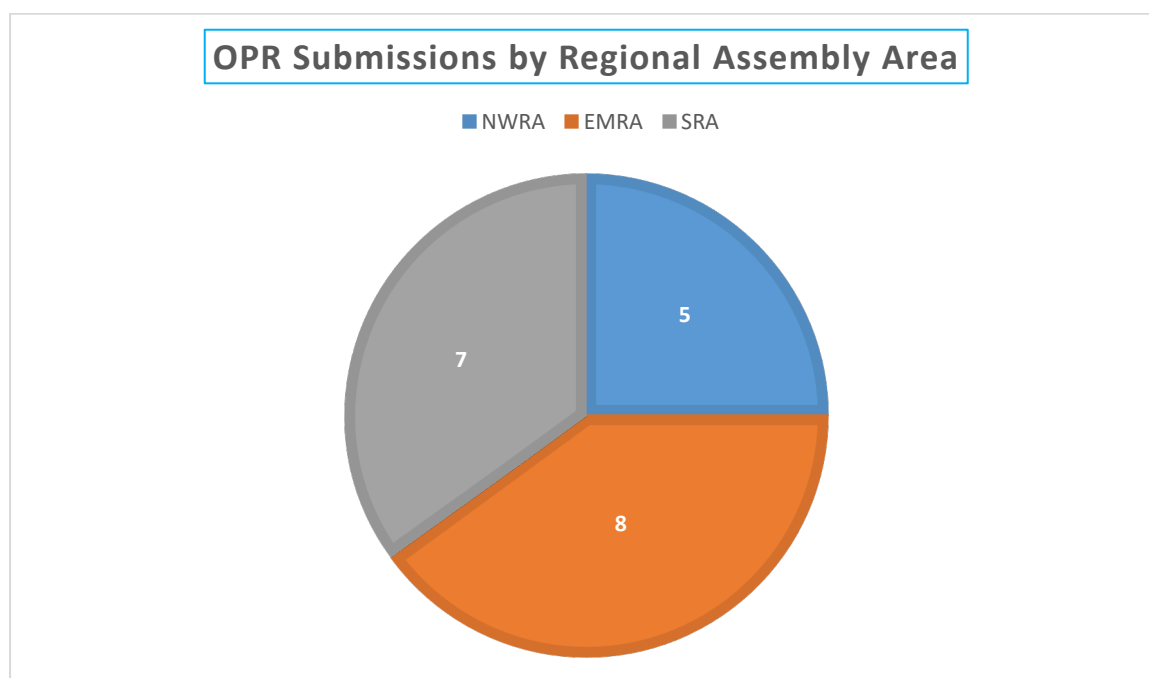


Figure 1: OPR Submissions by Regional Assembly Area

OPR Recommendations and Observations:

The OPR may make recommendations or observations in its submissions at the draft and/or material alterations stage. Due to the high-level nature of issues papers, the OPR does not make observations or recommendations at this stage.

Recommendations issued by the OPR relate to clear breaches of: relevant legislative provisions; the national or regional policy framework; and Government policy, as set out in the Ministerial guidelines under section 28 of the Planning and Development Act 2000, as amended (the Act). The local authority is required to implement or address recommendation(s) made by the OPR.

Observations take the form of a request for further information, justification on a particular matter, or clarification regarding particular provisions of a plan on issues that are required to

ensure alignment with policy and legislative provisions. The OPR requests that local authorities action an observation.

Table 2 sets out the number of observations and recommendations made by the OPR in Q4 2023.¹

Table 2: Recommendations and Observations made by the OPR			
	Submissions (number)	Recommendations (number)	Observations (number)
Draft County Development Plans	2	24	12
Variations to City/County Development Plans	5	-	-
Draft Local Area Plans	4	9	12
Material Alterations to Draft Local Area Plans	4	10	3
Total	<u>15</u>	<u>43</u>	<u>27</u>

OPR Recommendations and Observations: Legislative Categories

The evaluation and assessment of plans considers the following legislative and policy matters:

- Consistency with the National Planning Framework (NPF);
- Consistency with the relevant Regional Spatial and Economic Strategy (RSES);
- Consistency with the relevant Development Plan (DP);
- Relevant guidelines for planning authorities made under section 28 of the Planning and Development Act 2000, as amended (the Act), including consistency with specific planning policy requirements (SPPR) specified in those guidelines;
- Consistency with the NTA Transport Strategy (if in the Greater Dublin Area);
- Consistency with the legislative provisions for statutory plans as provided for under the Act;
- Consistency with legislative provisions in relation to Climate Action.

¹ As the OPR does not issue recommendations or observations at the Issues Paper stage these figures do not relate to submissions made at the Issues Paper stage.

A breakdown of the recommendations and observations made in Q4 by legislative category is contained in Tables 3 and 4. As recommendations can cover more than one legislative provision, the numbers presented in these tables (Tables 3 and 4) differ from the total number of recommendations listed above in Table 2.

The most common themes across the recommendations and observations issued in Q4 2023 were zoning, transport and flood risk management.

Table 3: OPR Recommendations	Number
Consistency with NPF	32
Consistency with RSES	34
Consistency with DP	26
Consistency with NTA TS for GDA	-
Policy Matters re section 28 Guidelines	40
Consistency with Legislative Provisions	14
Consistency with Legislative Provisions re Climate Change	19
Other	2
Total	<u>167</u>

Table 4: OPR Observations	Number
Consistency with NPF	5
Consistency with RSES	2
Consistency with DP	9
Consistency with NTA TS for GDA	-
Policy Matters re section 28 Guidelines	16
Consistency with Legislative Provisions	3
Consistency with Legislative Provisions re Climate Change	4
Other	1
Total	<u>40</u>

Adopted Plans - Outcome of OPR Submissions

Once a plan, variation or amendment has been adopted, the OPR has four weeks to assess it.

Eight local area plans were adopted by planning authorities in Q4 2023. The OPR's recommendations were satisfactorily addressed for five of these adopted plans: Tuam Local Area Plan 2023-2029, Roscrea Local Area Plan 2023-2029, Abbeyfeale Local Area Plan 2023-2029, Kildare Town Local Area Plan 2023-2029 and Dundrum Local Area Plan 2023-2029.

Assessment of the Newcastle West Local Area Plan 2023-2029 was ongoing at the end of 2023.

In addition, one variation was made to the Monaghan County Development Plan 2019-2025. The OPR made one recommendation to the proposed variation, which was satisfactorily addressed.

Draft Directions

The OPR's recommendations were not all satisfactorily addressed for the remaining two plans adopted in Q4 2023: Letterkenny Plan and Local Transport Plan 2023-2029 and Castlebar Town and Environs Local Area Plan 2023-2029.

Therefore, the OPR made a recommendation to the Minister regarding a draft direction for both of these plans. However, the Minister did not issue any draft directions in Q4 2023, and the process for both plans was ongoing at the end of Q4 2023.

Table 5 provides a breakdown of the number of recommendations which were not satisfactorily addressed.

Table 5: Adopted Plans – Outcome of OPR Submissions: Recommendations not all satisfactorily addressed

Plan	Local Authority	No. of Recommendations Issued	No. of recommendations draft Direction related to
Letterkenny Plan and Local Transport Plan 2023-2029	Donegal County Council	20	4
Castlebar Town and Environs Local Area Plan 2023-2029	Mayo County Council	7	4

Final Directions

The Minister did not issue any final recommendations during Q4 2023.

Stakeholder Engagement

Engagement with Local Authorities

During Q4 2023, the OPR continued to engage with local authorities, meeting with Tipperary County Council, Westmeath County Council and Sligo County Council.

This engagement allows the OPR to answer queries or discuss key matters regarding proposed plans, and to provide additional information, such as policy updates, which may support the work of the local authority during the plan-making process.

Plans Evaluation Forum

The OPR hosted two meetings of the Plans Evaluation Forum, in October and December 2023, which enabled discussions between all organisations on statutory plans subject to public consultation over that period.

Reviews and Examinations

Case Handling:

Case activity

The OPR provides a service to the public in relation to a variety of planning-related case types including queries or general information requests, submissions on aspects of the operation of the planning process, and complaints about the delivery of planning services.

During **Q4**, a total of **23** cases were received and **35** cases were closed by the OPR, detailed by month in Figure 2.

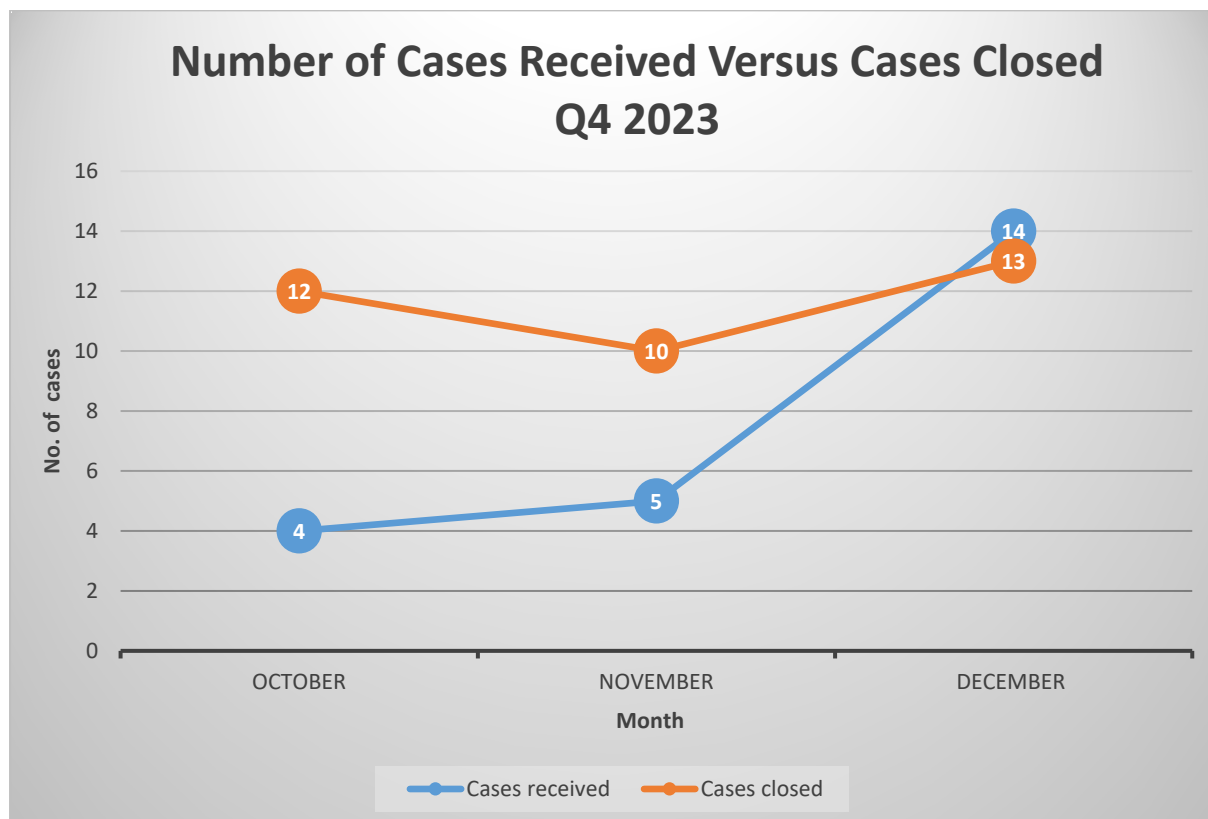


Figure 2: Cases received vs. cases closed Q4, 2023

The **35** cases closed in **Q4** are as follows:

- **22** complaints
- **7** queries
- **6** submissions



Figure 3: Case types

While some of the cases received can be handled in a relatively straightforward manner, many of the cases involve the consideration of voluminous and complex technical detail. Often, especially with regard to complaints, the processing of cases can be time consuming, involving a series of correspondence with the customer and / or the relevant local authority. This is demonstrated by the fact that the **35** cases closed in **Q4** are estimated to have taken approximately **215** working hours to process.

While a broad range of themes arose in the OPR's case handling during **Q4**, a number of dominant themes prevailed. As can be seen in Figure 4, the most common single theme was individual planning cases (occurring in **23%** of cases) followed closely by issues associated with enforcement and unauthorised development (at **14%**).

The theme entitled '**other**' includes a variety of issues such as: noise levels, environmental concerns, room sizes and other issues (at **10%**).

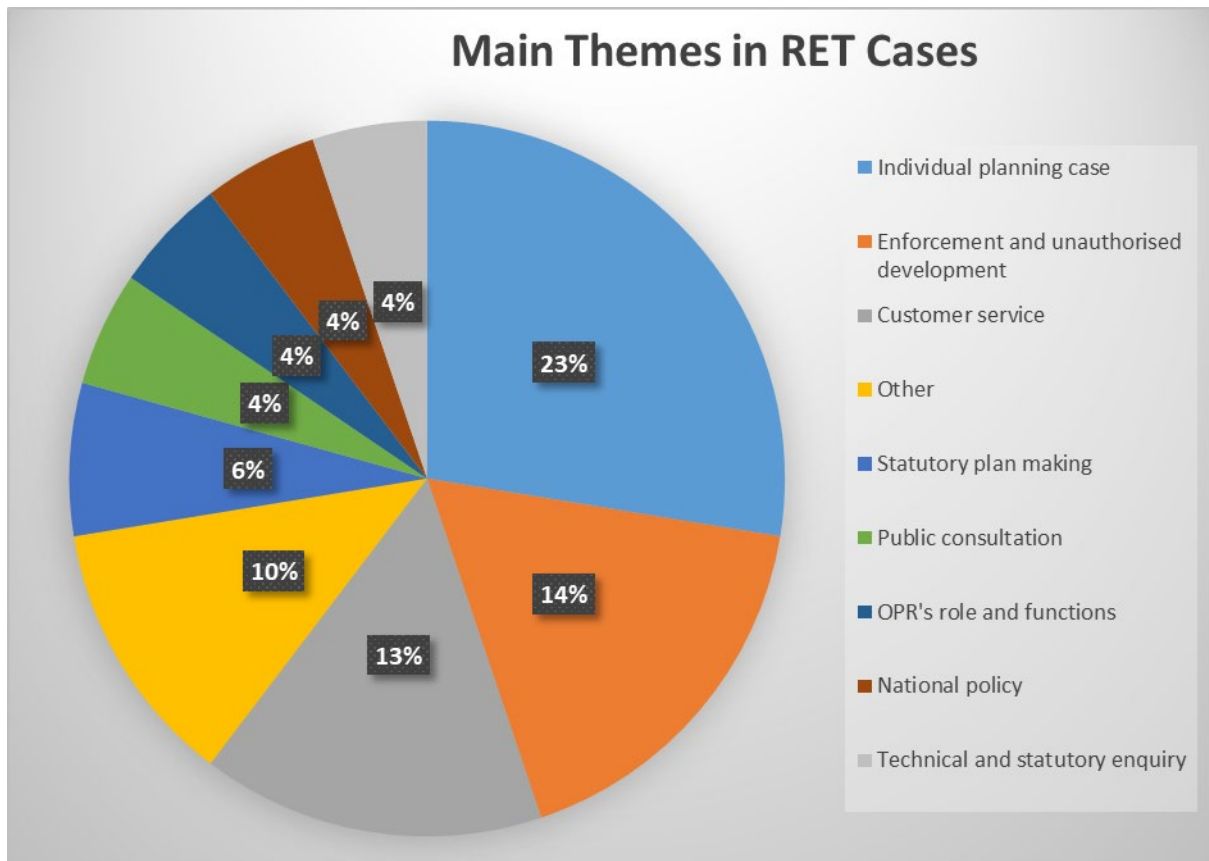


Figure 4: Main themes of cases closed ²

Complaints

The statutory provisions are precise with regard to the types of complaints that fall within the OPR's remit to examine. For a complaint to be considered examinable under the legislation, it must relate to the organisation of the local authority and of the systems and procedures used by it in the performance of its planning functions.

With regard to the **22** complaints closed during **Q4**, based on the procedural matters raised, the OPR gave preliminary examination to **7** of these complaints. **2** of these complaints were upheld. Both complaints related to enforcement and unauthorised development issues and concerned the same local authority. **5** of these complaints were not upheld. The OPR determined that the matters raised did not represent a systemic concern or that the local authorities had followed proper procedure. Of these **5** cases, **3** of the complaints related to enforcement and unauthorised development issues. **1** case related to local authority 'Part 8' development and **1** case related to technical aspects of planning report preparation.

² The remaining 18% includes: Local authority development and Part 8 (3.3%); EIA and SEA and Habitats Directives (3.3%); Housing Delivery Models (3%); Material Contraventions (1.4%); Non Statutory Plan Making (1.4%); Legal and Ownership Issues (1.4%); Single Housing in the Countryside (1.4%); Invalidations (1.4%); An Bord Pleanála (1.4%).

Planning Authority Reviews Programme:

Through its reviews programme, the OPR fulfils an important oversight and monitoring role in relation to the systems and procedures used by local authorities in the performance of their statutory planning functions.

Review of Offaly County Council

Following engagement with the Council and Minister for Housing, Local Government & Heritage on a draft report, the OPR published the [Offaly County Council review](#) in **Q4**. The review found that Offaly County Council operates effective and robust systems and procedures in the delivery of its statutory planning functions. The report highlighted the positive impact of the Council's dedicated architecture / heritage / conservation team who work closely with planners in the forward planning, development management and regeneration teams. The review made a total of **10** recommendations regarding how existing service levels can be maintained and improved. A recommendation which appeared throughout the OPR's report is the need for the Council to prioritise additional resources for the planning department. This budgetary support will ensure the department has access to specialist expertise as required.

Review of South Dublin County Council

The OPR formally initiated its review of South Dublin County Council during **Q4**. The OPR met with South Dublin's planning department to discuss the review process. Under section 31AV of the Act, the OPR issued a request for information on South Dublin County Council's statutory planning functions. In line with this request, comprehensive information on the organisational and management context, statutory planning functions and wider strategic context was provided to the OPR. This information is critical in enabling the OPR to build a clear picture of the local authority's delivery of its statutory planning functions.

This information was analysed by the OPR and further to this, an intensive schedule of workshops to discuss various aspects of the planning authority's operations took place at South Dublin County Council offices in Tallaght. The OPR met with senior management and staff from South Dublin County Council's planning department and discussed various aspects of the Council's planning operations.

Local Authority Monitoring

Monitoring the implementation of the OPR's recommendations helps to ensure the integrity of the review process. Monitoring is conducted at six monthly intervals.

During **Q4**, the OPR engaged with local authorities at various stages of implementation, such as:

Galway City Council – the **18-month** progress update was completed

Tipperary County Council – the **24-month** progress update was progressed

Louth County Council – the **24-month** progress update was progressed

The OPR's monitoring indicates that review recommendations are being implemented, or progressed, across the various local authorities, notwithstanding ongoing resourcing challenges being experienced.

An Bord Pleanála Monitoring

Ensuring the implementation of recommendations arising from both phases of the 2022 An Bord Pleanála review continues to be a high priority for the OPR. In **Q4**, the OPR continued to closely engage with An Bord Pleanála and the third quarterly progress update was completed. Progress continues to be made in the implementation of the recommendations arising out of the OPR's review, including progress on a draft decision-making procedures document, a key overarching recommendation of the OPR's review that will help to guide both staff and Board Members.

Research, Education, Training and Public Awareness

Councillor Training

In Q4 the OPR engaged with the Association of Irish Local Government and agreed the 2024 planning training programme for elected members of planning authorities in respect of matters relating to proper planning and sustainable development.

As local elections are scheduled to take place in June 2024, and candidates will be canvassing during the preceding months, it was agreed to deliver a briefing for elected members on the new planning legislation in February (subject to the legislation being enacted) and thereafter to pause the training until Q3 when the outcome of the elections will be known and the new councils are in place. An intensive programme of planning training will then be rolled out over Q3/Q4 2024 so that members are well equipped to deliver on their planning functions by the end of 2024.

Local Authority and Regional Assembly Staff Training

In Q4 in line with the OPR's statutory mandate to conduct education and training programmes for staff of local authorities and regional assemblies in respect of matters relating to proper planning and sustainable the OPR delivered a webinar entitled '*Planning Enforcement in Practice*'.

The presentations dealt with:

- An Overview of the OPR's Practice Note PN05 – Planning Enforcement;
- Planning Enforcement – The Legal Perspective; and
- Local Authorities' Experience of Dealing with Planning Enforcement

Presentations were delivered by Sinéad Mullen, Senior Planner with the OPR's Research, Training and Public Awareness team, John Morrissey, BL, who has extensive experience of all levels of Court in Ireland and Northern Ireland, Ann Marie Devaney, Senior Planner with Tipperary County Council and James Cosgrove from Dublin City Council's Planning Enforcement team. The presentations were followed by an extensive Questions and Answers session and the speakers were joined by Michael Kenny, former Senior Planner with Kildare County Council and lead author of the Practice Note on Planning Enforcement and Mary Hayes, Senior Supervisor in the Short Term Letting Section of Dublin City Council.

The webinar was recorded and the recording is available on the OPR's website.

Implementation of the Learning and Development Strategy for Local Authority Planning Staff

Throughout Q4 work continued on the implementation of the recommendations contained in the Learning and Development Strategy (L&D Strategy) for Local Authority Planning Staff that was published by the OPR, the County and City Management Association (CCMA), the Local Government Management Agency (LGMA) and the Department of Housing, Local Government and Heritage in January 2023.

Further meetings took place in Q4 of the Planning Services Training Group (PSTG) that was established to oversee the implementation of the L&D Strategy. The PSTG comprises representatives from the County and City Management Association, the Local Government Management Agency (LGMA), the Department of Housing, Local Government and Heritage (DHLGH), the OPR and the Local Authority Services National Training Group (LASNTG). The PSTG will be supported by a Courseware Development Specialist (analogous to Senior Executive Planner) and an Assistant Staff Officer. During Q4 work was advanced on the recruitment of the support staff and both the Courseware Development Specialist and Assistant Staff Officer were formally appointed and are scheduled to commence work with LASNTG in Q1 2024.

Publication of Educational Material for Local Authority and Regional Assembly Staff and Other Key Stakeholders

During Q4, the OPR hosted a meeting of the Planning Law Steering Group and agreed the case selection for the second edition of the '*Learning from Litigation*' bulletin. Thereafter the OPR engaged with legal practitioners to produce the second edition of the bulletin. The bulletin provides information on important precedents, court decisions, emerging trends and an overview of noteworthy cases. These cases included:

- Clane Community Council V An Bord Pleanála [2023] IEHC 467;
- Mannix Coyne and Anne Coyne V An Bord Pleanála, Ireland and the Attorney General and Enginenode Limited [2023] IEHC 412;
- Four Districts Woodland Habitat Group, BCM Residents Association, Rathcoole Park Residents Association and Forest Hill Residents Association v. An Bord Pleanála, Ireland and The Attorney General and Romeville Developments Limited. [2023] IEHC 335; and
- Ironborn Real Estate Limited v Dún Laoghaire-Rathdown County Council [2023] IEHC 477

The second edition of the '*Learning from Litigation*' legal bulletin was published in Q4 and has been shared with stakeholders and promoted extensively via OPR social media accounts. It is envisaged that the legal bulletin will be published on a quarterly basis.

OPR Research Output

In Q4 the OPR advanced work on a number of research projects identified within the Strategic Planning Research Programme (2023-2025) some of which were long-term projects carried over from the original Strategic Planning Research Programme (2020-2022).

Strand One (Planning Issues) Projects

In Q4 the UCD research team advanced work on the '*Understanding Rural Housing Dynamics*' research project. Updates and revisions were completed including: updates to the spatial analysis chapter to take account of recent census data; review of the NPAD and ePlan development management data; and preparation of an additional synthesis chapter. It is expected that the draft research report will be circulated for review by the Steering Group

early in Q1 2024 and a Steering Group meeting will be held thereafter. It is intended that the output from this research will be available as a resource for the DHLGH in their first revision of the National Planning Framework (NPF). This research is consistent with the OPR's intention to conduct research into rural housing and to examine 'the story behind the statistics'.

During Q4 the International Centre for Local and Regional Development (ICLRD) advanced work on the '*InPLACE – Investigating Planning, Place-Making and Commuting*' research project. The fieldwork in all of the case study locations was completed and the case study interviews were transcribed. Interviews with planning and policy decision-makers were also conducted in Q4. The ICLRDR project team are currently awaiting receipt of data from the CSO. This data will be analysed in Q1 2024 and a draft report will be produced. It is anticipated that the final report will be published by the end of Q1 2024 with a formal launch of the research at an ICLRDR conference in early Q2 2024.

In Q4 work was advanced on the EPA-DAFM (Department of Agriculture, Food and the Marine) co-funded research project entitled '*Reframing landscape as a key environmental topic through the development of a landscape character assessment toolkit*' or '*Reframe*'. The OPR reviewed the draft report and furnished comments to the project team. It is anticipated that the final research report will be published by the EPA early in 2024. Dissemination and training will follow thereafter.

During Q4 work was progressed on the brownfield/land activation research project with the appointed contractor, Mitchell McDermott. Several project meetings were held and there was extensive engagement with NESC, the Housing Agency and the DHLGH NPF Project team. In addition, an extensive literature review was undertaken, interviews with key stakeholders were completed and drafting of the report commenced. A first draft of the report is expected in January 2024 and a workshop is planned with key stakeholders thereafter. The final report will take the form of a Research Series Report and it is anticipated that it will be published in Q1 2024.

In Q4 the OPR worked with Fieldfisher Ireland LLP to finalise a research report on '*Legal Costs in Planning and Environmental Judicial Reviews*'. This report was prepared on foot of a request received from the Minister for Housing, Local Government and Heritage, in Q2, to develop a synthesis of evidence on legal costs in judicial reviews proceedings on environmental matters in order to inform proposed changes to the existing rules on costs in environmental litigation under Section 50B of the Planning and Development Act 2000. The research report provides an overview of the operation of Ireland's obligations under the Aarhus Convention and EU law in respect of the requirement that certain proceedings are not prohibitively expensive (NPE). It brings together data and legal research including an overview of actual costs incurred in environmental Judicial Reviews with a comparative analysis of how NPE is applied in other countries. The report was furnished to the Minister in Q4 and will be published and shared with stakeholders in 2024.

During Q4, the OPR continued to support TU Dublin through the concept phase of their Science Foundation Ireland (SFI) funded project for sustainable communities' research. The

project title is '*Campus' Role as Actors in Walkable and Liveable Communities*' or CRAWL and the OPR acts as Societal Impact Champion. The project commenced in September and throughout Q4, the project team progressed stakeholder interviews. This research is consistent with the OPR's work to promote proper planning and sustainable development.

In Q2 2023 the Minister for Housing, Local Government and Heritage (the Minister) established a Steering Group to review the current level of fees payable to planning authorities in respect of planning applications and miscellaneous planning fees. The Steering Group comprised staff from the DHLGH, the OPR and representatives of the local authority sector. To support the work of the Steering Group the Minister requested the OPR to conduct research into the costs associated with the administration of the local authority planning system, current levels of cost recovery and to compare the Irish context with planning fees and charges in other administrations. This research was completed in Q4 2023 and the '*Planning Fees Review*' report will be submitted to the Minister in Q1 2024.

Strand Two (Planning Performance) Projects

During Q4, work was advanced on the OPR-EPA funded project '*Public Participation and Performance Criteria in Strategic Environmental Assessment: The Way Forward to Advancing Practice*' or '*SEAWAY*'. A further Steering Committee meeting was held in December 2023 and drafting of the research report was advanced. The research outputs will also include a promotional video. A final Steering Committee meeting is scheduled for Q1 2024 and the project is due to be completed in Q1-Q2 2024.

During Q4 the OPR attended the second Steering Committee for the EPA-funded research project called '*Pro-Health*'. This project involves the development of a toolkit for proportionate and consistent consideration of population and human health in Strategic Environmental Assessment. This precise project scope and input to the selection of case studies in Ireland and Europe was advanced in Q4.

Strand Three (Planning Practice) Projects

During Q4 work was advanced on Practice Note PN05 – '*Planning Enforcement*'. Edits to the text were finalised following the peer review and extensive work was undertaken with the graphic designer. The final document was published in October and it was shared with stakeholders and promoted extensively via OPR social media accounts. A training event linked to this publication was delivered in December.

In Q4 work continued on Practice Note PN04 - '*Planning for Employment Growth: The Development Plan and Employment Lands*'. Following extensive stakeholder engagement and receipt of feedback from stakeholders a draft of the practice note was prepared by the contractor. The draft was reviewed and revised by the OPR taking into account the OPR's Plan Evaluation Team's experience from reviewing development plans. It is expected that a final draft of the practice note will be peer-reviewed early in Q1 2024 and the practice note will be finalised and published thereafter.

Digital Planning

During Q4 the OPR advanced work on the following projects:

Digital Planning Hub

The OPR launched a Digital Hub in Q4 enabling the organisation to consolidate its suite of digital planning tools and make them available to staff via one easy to use central access point.

Settlement Housing Delivery Tracker

In Q4 a dashboard was created for OPR staff to measure housing delivery at a settlement level. The application allows users to track housing completion figures at a settlement level and at predefined spatial scales beyond a settlement boundary.

Communication and Stakeholder Engagement

Social Media

During Q4 several posts were created to promote job openings at the OPR and to promote the 'Integrating Energy Supply and Planning' and 'Planning Enforcement' webinars.

The second edition of the 'Learning from Litigation' bulletin and the 'Planning Enforcement' practice note were also shared on both LinkedIn and X.

Website

The OPR's second plan-making calculator also went live on the website during Q4.

In Q4 four news stories were published on the OPR website to promote the work of the OPR. The OPR website is also being continually reviewed and updated.

Print Media

Media engagement continued throughout Q4 with several interactions with national, print and broadcast media including the Irish Times and Midland Tribune.

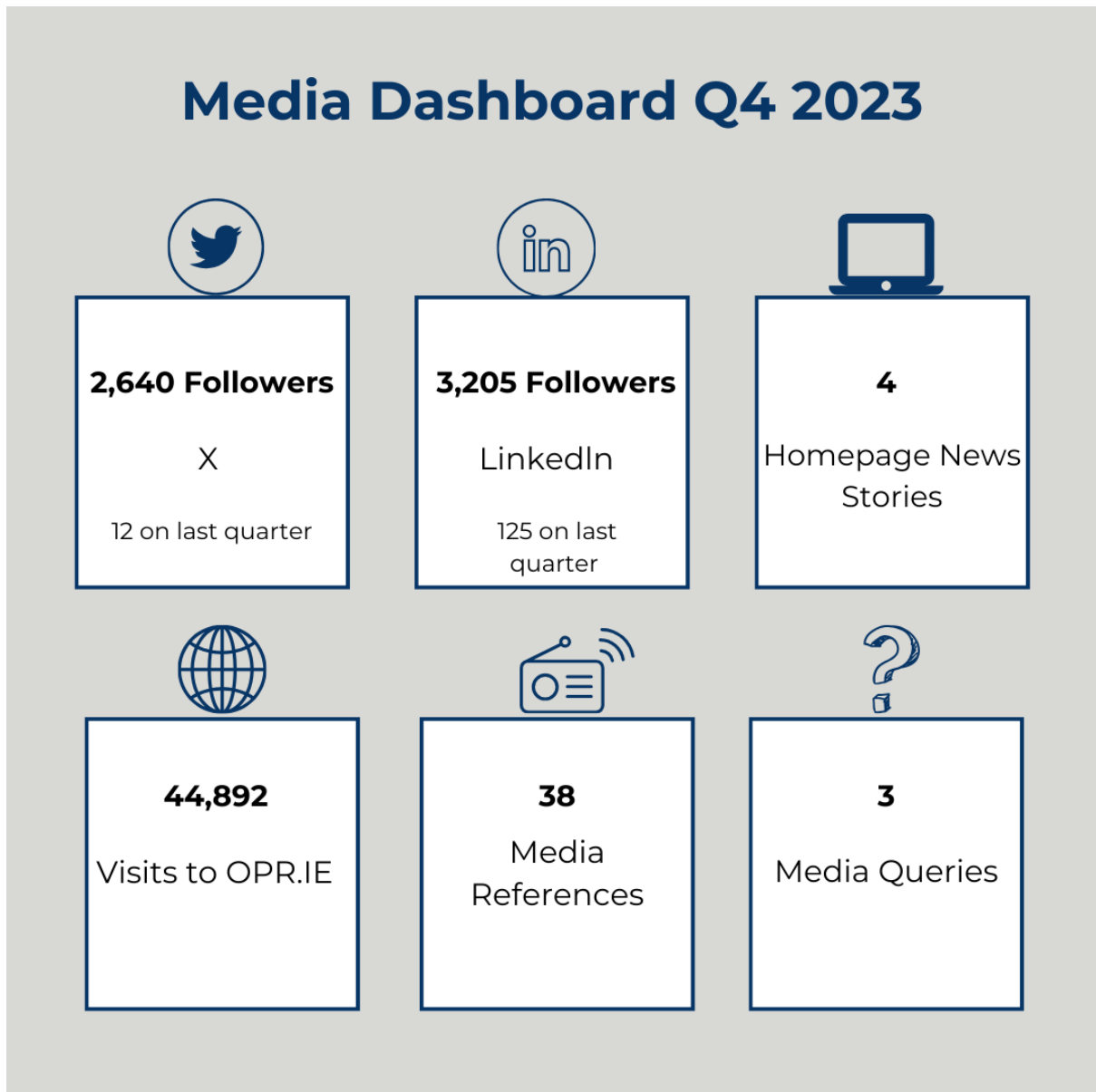


Figure 5: Media Dashboard Q4 2023