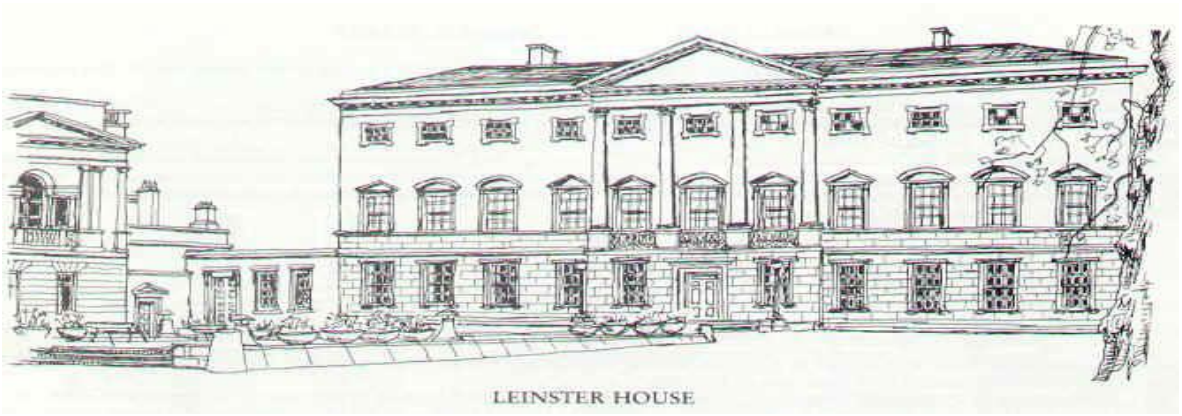
Association of Irish Local Government

Meeting with the Joint Oireachtas Committee on Environment, Culture and the Gaeltacht on the General Scheme of the Planning and Development (No.1) Bill 2014.



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27 Jan 2015

Introduction

The Association of Irish Local Government thanks the Committee Chair and members for inviting it make a presentation to the Oireachtas Committee. We bring to the table the experience of elected members for whom planning related issues are a central concern in their work as public representative. With the possible exception of roads there is no other local government issue which generates so much of a councillor's workload as is the case with planning. That planning law and practice is an ever evolving area is underlined by the fact that the bill under discussion is the latest in a series of legislative acts brought through the Houses of the Oireachtas since the first Planning and Development Act in 1963.

In our remarks to you today you will notice a diversity of viewpoints. This reflects the reality that our members represent a great variety of planning environments across the country. Some of our members are rooted in Ireland at its most rural where councillors are working to sustain communities badly in need of new development of all kinds. Yet more of our members are based in city centre or inner suburban communities where there are extensive vacant or brownfield sites which could prove a viable solution to the demand for more housing sites in such urban locations.

Therefore the Association represents a broad church and essentially our role is to act as a conduit of opinion and information from elected members and how

they s see the new Bill in terms of its contribution to their communities. This can lead to quite different viewpoints as regards the individual amendments specified in the new Bill. This is not as a result of a difference of opinion rather it indicates our determination to ensure that the Bill does not become a “once size fits all” piece of legislation but rather has the flexibility to enable local government to do what it does best – plan for the circumstances unique to the locality in question whether that be a rural, suburban or urban locality.

Having said that, the Association appreciates the intention of the Bill which – among other initiatives - is to bring clarity to the operation of what are termed the Part V requirements regarding the provision of social and affordable housing by developers. There is also a welcome for the provisions designed to prompt the resumption of construction on land areas zoned for housing where construction is not actively under way arising from the wide variety of circumstances – some of them outside of the planning remit such as the availability of finance and mortgages. Similarly the Bill also has relevance to what are termed “brownfield sites” where sites in inner urban areas lie unused representing a loss in terms of the public investment in utilities which serve such central urban areas.

We would now like to make some specific points regarding individual measures in the Heads of Bill as published.

Head 3 – expenses and costs of legislation.

This provision sets out that any costs incurred by the Minister in the administration of the Bill shall be paid out of the exchequer. While this provision insulates the Minister's department as regards any costs there is no similar provision for the implementing local authorities. The application of this Bill may prove quite onerous in relation to the assessments required to establish the ownerships and circumstances of underutilised sites. The Association would urge that the Department would quantify the costs which will have to be met in implementing the Bill.

Head 4 B Relating to Housing Strategies

1. **New paragraph to be inserted in the Principal Act to require planning authorities to consult with Approved Housing Bodies in the context of the preparation of their housing strategies.**

The requirement to consult with other agencies involved in the provision of housing is acknowledged, however the relationship between local authorities and the Approved Housing Bodies should be a two-way street. There should be a requirement for the Approved Bodies to take into account Council concerns – including issues raised by elected members – in the course of their house building and management activities. We recognise that the Approved Bodies are well regarded for playing their part in providing the quantity and mix of housing required. However as major recipients of public funding their needs to be an improved level of communication between such bodies and the elected councils. In fact the status of the local council has the housing authority needs to be reinforced. For more than a century councils have been the providers of social housing for the Irish population. Councils have a strong record of achievement in the housing area. In the context of any housing policy the experience and the capacity of county councils as the housing authority needs to be regarded and emphasised.

2. **Housing strategies should be required to take account of Government sectors relating to marginalised sectors including … homeless, housing strategies for disability, strategies for traveller accommodation and strategies for housing of older people.**

The AILG would recommend the addition of housing for returned emigrants (who otherwise qualify for social housing) as part of this mandatory range of housing strategic considerations. There has been some good work down by local authorities on the western seaboard in regard to this small but important cohort of housing applicants.

3. **Delete the provision – section 94(4) (a) (ii) --from the principal Act relating to affordable housing.**

The Association has some reservation regarding the dropping of the affordable homes element. The accompanying justification in the notes to the Bill that "In the light of … substantial improvement in housing affordability …. There is no longer a justification for providing 10% affordable housing under Part V" does not reflect the reality. The daily experience of Association members around the country would contradict any generalisation that houses have become affordable. Our councillors constantly meet with two working professionals who are struggling to get the deposit together to purchase their first home. For the majority of new home owners, houses are not easily affordable and the Oireachtas would not be well advised in relinquishing the concept of affordability albeit that it has to be addressed in housing policy generally rather than this Bill. The Association acknowledges that the move to reduce the requirement for a 20 percent social/affordable provision to 10 percent may well prompt the resumption of housing projects where

the 20 percent requirement imposed too high a cost threshold for builders in the current economic climate.

4, 5, 6. Taken together these provisions require that as a general policy a specified percentage – not being greater than ten percent – of houses shall be reserved for social housing. In addition it is specified that the "on-site provision of social housing should be the default option for developers and local authorities" and that the alternative "off-site" option being only being possible in specific exceptional circumstances.

The intention of this provision to promote integrated mixed tenure is acknowledged. However although well-intentioned this requirement could operate to the detriment of social housing residents and to the local authority. Social housing residents rely heavily on public services such as public transport, access to public health services etc. It makes no sense in the case of new estates built at some distance from such services to insist that social housing occupants should reside there when it would make more sense for all concerned to be closer to a hub of public services in a local town. There should be a degree of flexibility left open to local authorities as regards the location of the social housing arising from Part V. As part of its housing strategy the elected Council could agree, as a reserved function, a number of well-serviced locations where the ten percent social housing units could be located. While the Association agrees that mixed tenure is important there also has to be a realistic positioning of social housing output so that it reflects the needs of those who will occupy the houses in question.

Head 4 D

Exemptions from Part V

The raising of the threshold size of new developments from 4 to 9 for the purposes of Part V is realistic and accommodates the small scale housing developments that take place in the smaller villages

Head 5A

Enabling local authorities to incentivise development of vacant sites.

The thrust of this Head is to provide a "carrot and stick" set of tools to a local authority to incentivise the use of vacant or underutilised sites.

The "carrot" relates to Head 5B (1) and (2) which provide for the reduction of development levies in the case of underutilised sites where the City and County Development Plan has included objectives for the redevelopment of such sites. The stick relates to the imposition of a vacant sites levy on sites in locations where the Council has made a Development Plan/Local Area Plan which specifies the reuse of derelict and abandoned sites.

Once again, the intention in principle is good and everybody involved in local government knowns of sites which are left vacant in town centres and apart from constituting eyesores and diminish the attractiveness of the high street also represent a wasted opportunity in terms of infill development that would make the town centre a livelier and busier place. That said we would point out

that the exemptions are so broadly drawn that it would make the levy very difficult to operate in practice.

For example the local authority must be satisfied that there are no reasons of an economic (including undue hardship), infrastructural, technical or other nature to prevent commencement of development. The majority of high profile town centre sites are precisely the sites most likely to be tied up in economic or legal impediments to their development. The ownership of urban sites can be quite complex with issues of trusts and probate affecting older town centre locations. More recent sites which remain undeveloped may be subject to a lien from the National Management Assets Agency or from a financial institution thereby complicating the possibility of a swift return to an active site. Technical issues are also part and parcel of urban development. A site may lay vacant because a right of way or structural stability is required of adjacent premises in separate ownership. When such legitimate obstacles to developing a site are taken into account the scope for the levy as circumscribed by the limitations in Head 5B may be very limited indeed.

There also arises the question of how the local authority is expected to establish the status of sites which are held up by complex ownership or legal questions. There seems to be no obligation in the Act for owners of property to provide evidence of their circumstances in response to legitimate enquiry by local authorities.

Conversely, in the case of sites which are free from all encumbrances the time exemption of three years allowed before the levy “kicks-in” seems to be on the generous side considering the need to respond to current housing demand.

The Association also raises the need for clarity of the definitions in the Bill.

At 5A the definition of “vacant or underutilised site” is not sufficiently clear. By what criteria is a parcel of land adjudged to be “underutilised”. Similarly the definition of “undue hardship” needs to be brought forward not least to facilitate consistent use of this definition across the range of local authorities.

Most of the remaining provisions of the Bill are technical or administrative in nature and do not call for any special remark other than Head 7.

Head 7 – modification of duration of planning permissions

This provides for a local authority to reduce the term of a planning permission by a maximum of two years where the development has not commenced. Once again the exemptions seen in earlier subheads apply such as commercial, technical or other considerations “beyond the control of the holder”. It is hardly necessary to point out that most sites for which planning has been granted are in their current status arising from economic and commercial factors. Given that planning permissions expire within a five year horizon the usefulness of this measure may well be limited.

Conclusion

It is in the nature of analysis of this nature that problems and pitfalls will be identified. We do so in the spirit of informing the Committee so that it might recommend changes at this early stage in the parliamentary trajectory of the Bill.

The Association of Irish Local Government endeavours to bring to the fore the voices of elected members who are rooted in their own soils. It is they who operate on a daily basis the measures crafted in departmental offices and departmental meeting rooms.

We acknowledge the intent of the Planning Bill No 1 2014 which sets out to ensure that as a nation we are building the right things in the right places and that we are not placing obstacles in the way of urgently needed housing development.

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Drafted by Liam Kenny, AILG, 2015