Presentation by IPAV, the Institute of Professional Auctioneers & Valuers to the Joint Committee on Housing, Local Government and Heritage on the General Scheme of the Land Value Sharing and Urban Development Zones Bill 2022 (LVS)

Thursday June 1st, 2023

Cathaoirleach, Leas-Cathaoirleach, Deputies, Senators,

Good morning, I'm Donald MacDonald, Director of Hooke & MacDonald and member of IPAV. I'm joined today by IPAV Chief Executive, Pat Davitt.

Thank you for the invitation, we're delighted to be here and to contribute to your scrutiny of this critically important Bill.

The proposal to capture and share in part of the uplift in value ensuing from improving the land value of holdings from a lower to a higher use value is a good one provided it is-properly structured and ~~if~~ that the benefits accruing can be utilised for funding critical local infrastructure.

It is our belief that the contents of the Bill, as presently structured, would not achieve the desired outcome. In fact, it is likely that it would impede the supply of new homes throughout the country.

Viability is currently a major factor in preventing thousands of new homes from being fundable for construction around the country. There is an existing problem here with funding. Lenders were cautious but with rising interest rates they have become extremely risk averse. The proposed measures would make many of the projects even less viable than they already are by adding a tax to lands already overburdened with non-construction expenses in the delivery of houses.

This measure, now the subject of this Bill, was originally put forward as a replacement of development levies but it is now being added to the development land levy regime.

From research carried out on cities and towns throughout the country by IPAV member firms it has been established that, although there is a critical shortage of homes for sale and rental, it is clear that the building industry is being overtaxed and over regulated.

Small builders, many of them long established reputable family businesses, are being forced to close and cease building. Their expertise and commitment to housing delivery is being lost. Their workforces are being disbanded, it is no longer viable or profitable for them to acquire sites and fund construction.

They are being driven from the market in the same way that small investors are being forced out of the rental market – they are overtaxed and overregulated.

Hooke & MacDonald have carried out detailed research recently on the housing markets in areas such as Kilkenny and Galway. This clearly shows that the delivery of new homes is being impeded, not just by delays and difficulties in obtaining planning permission, but also by factors which are making land and sites unviable for them to acquire and build on.

Both Kilkenny and Galway have been hugely successful in attracting new industries from home and abroad but both, like other areas around the country, are now facing the prospect of not being able to provide houses for employees of these companies and losing out on future investment.

The Land Value Sharing Bill, as presently constituted, will, unfortunately, add further negativity to this predicament.

There is a severe shortage of new homes on the market each year in the likes of Kilkenny - for sale and rental – and both houses and apartments.

One of the main problems is the lack of viability and this is getting worse as a result of rising interest rates and construction cost inflation. There were just 194 new estate houses built in Kilkenny in 2022 and a total of 660 built in the five year period 2018-2022.

There is strong demand in Kilkenny from first time buyers and also people trading up and down and renters. Remote working has added to the demand for housing in the county, for both purchase and rental.

At current selling prices prevalent in the city and county it is not profitable or fundable to build new home developments in many instances.

There were only 27 apartments built in Kilkenny in 2022. In the five year period 2018 – 2022 there were just 198 apartments built in the city and county.

The shortage of housing for sale and rental is already adversely impacting companies currently operating throughout the country as well as other international companies considering setting up here.

There are a number of unintended consequences of the LVS Bill. It will:

- Distort the land market
- Increase non-viability
- Overburden development projects with more taxation
- Create more uncertainty
- Inhibit funders and
- Reduce housing commencements.

Funding of new homes is crucial to the national economy and to maintain the social fabric of our society. This LVS legislation will put further pressure on a sector that is already in a state of flux. International capital has a crucial role in funding Ireland's housing programme. To put this further at risk would have very severe consequences.

The LVS Bill will force developers and owners of existing land to retrospectively allow for a potential 30 per cent charge on a large part of the value of their land, pushing up development costs, disimproving viability, causing many planned schemes to stall or be abandoned – all of which pushes up the cost of homes for those seeking accommodation.

In summary the issues and solutions relating to the LVS element of the Bill are as follows:

Issue 1: Ireland is seen by informed parties both domestically and internationally as a very difficult place in which to carry on a business related to the construction of housing, a perception that has only gotten worse over the last 5 years. This is as a result of wide-ranging factors including ever increasing, complex and in some cases contradictory building regulations, a dysfunctional and adversarial planning system, lack of available equity and debt funding, lack of viability, inordinate delays in projects, substantial construction and labour cost inflation and shortages. Funding of new homes is crucial to the national economy and to maintain the social fabric of the country. This proposed LVS legislation will put further pressure on a sector that is already in a state of flux. A mix of domestic and international organisations is fulfilling a crucial role to funding and facilitating Ireland's housing programme and progressing the land development process - to put this further at risk through the current LVS proposals would have very severe consequences.

The LVS Explanatory Memorandum states "*a key challenge in implementing LVS is ensuring that the mechanism captures fair value for the State but avoids disincentivising housing supply*'. As currently drafted and based on the current crisis in the housing development sector, the proposed LVS measures will further disincentivise housing.

Solution 1: Put a pause on the current process and allow for additional engagement with relevant parties so that the various stakeholders, government, Oireachtas, charitable and private sector can understand the consequences (including unintended ones) fully of the proposals and adjust the proposed legislation if necessary to ensure it is equitable and workable at a practical level, and not an impediment on the future supply of housing.

Issue 2: The Bill departs substantially from the originally presented documentation and there is no explanation around the reasons for this. For example, the tax is now retrospective, and instead of replacing Development Levies it is in addition to them.

Solution 2: Put a pause on the current process and have additional engagement with relevant parties.

Issue 3: One of the main issues is the lack of appreciation of the challenged state of the development sector for new homes across Ireland. This LVS, as another additional cost of development that ignores the challenges of viability and the additional costs imposed by the State on the development of housing, which ultimately have to be paid for by the end purchasers, often a First Time Buyer. Some of the challenges have been clearly outlined in the Department of Finance commissioned report, Project Emerald, prepared by KPMG in 2022 and released in April 2023, which clearly outlines the issues relating to viability.

Solution 3: The Bill should be adjusted to have LVS as a substitute for Development Contributions, not an addition to them.

Issue 4: The report by Indecon, which influenced the Bill, has not been published, leaving a void in the discourse around the Bill. The LVS Explanatory Memorandum states "*it is important to note that the analysis undertaken by Indecon is based on assumptions and an incomplete dataset given the lack of recorded data on land values*."

Solution 4: Publish the Indecon report to allow various stakeholders understand the arguments behind the changes to the proposed tax and contest them through future discourse and stakeholder engagement.

Issue 5: As currently drafted, the Bill does not allow for a mechanism for offsetting of costs of public infrastructure paid for by the builder / developer.

Solution 5: There needs to be an allowance for offsetting LVS where a builder / developer is delivering significant public infrastructure, services, and facilities as part of a development.

Issue 6: The valuation process in the Bill is unsatisfactory, there is no explicit appeal process, timeframe requirements or measures to avoid delays.

Solution 6: The valuation and appeal process needs to be further developed, including with input from stakeholders.

Issue 7: The purpose of the tax is to capture increases in the value of land as a result of re-zoning and not for other factors, however, the valuation methodology does not take into account uplifts on value that could accrue from factors such as inflation, improved public transport or community infrastructure.

Solution 7: These factors need to be considered in the valuation process for the purposes of LVS.

Issue 8: The Explanatory Memorandum states that "*it is evident that the benefit conferred by the zoning of land for residential development results in significant uplifts in land value*". This is a generalised statement that does not take into account of the nuances of valuation and market factors, including the significant challenges around viability, especially for higher density development.

Solution 8: There needs to be further discussion and review of proposed measures with the various stakeholders and a recognition that the LVS in its current form could add further dysfunction to the land and development sector.

Issue 9: The Bill provides for social and cost rental housing to be given an exemption from the tax. This discriminates against builders and developers looking to supply to the private sector, including First Time Buyers and private renters.

Solution 9: There needs to be fair treatment of both private and social and affordable housing within Government policy in Ireland, otherwise one tenure type is being discriminated against. While the current focus on social and affordable housing is very much required, there is a risk of creating an unsustainable housing system, where there is a heavy burden on the State and taxpayers to provide and maintain housing into the future.

Issue 10: Unlike the initial indications, the tax is now being proposed as a retrospective tax.

Solution 10: The tax should be borne by the party who ultimately benefited from the re-zoning decision. In the interest of equity and ensuring that the proposals do not negatively impact on housing cost or delivery, LVS should not apply to lands transacted prior to the legislation being enacted.

This does not undermine the objectives of the Bill. The exclusion of the zoned land transacted prior to the publication of the Bill merely recognizes that the uplift in value has already taken place and there is no ability to share the LVS cost with the original landowner.

Issue 11: Related to the transitional arrangements - the way the Bill is currently drafted, it may mean that where a planning permission has been applied for during the period of the transitional arrangements, a further application relating to the same land that could be made to improve the overall development may be caught by the provisions of the Bill (e.g. better estate management or more suitable housing types for the needs of the community).

Solution 11: Where a planning application for land has been made the land within the transitional period, that land should be excluded from future liability.

Thank you.