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[By email to: paul.hogan@housing.gov.ie]

16 June 2023

Dear Paul,

Re: Additional Comments on the General Scheme of the Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022

Further to our evidence to the Joint Committee on Housing, Local Government and Heritage on 16 May 2023 as part of their pre-legislative scrutiny of the general scheme of the Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022, and reflecting the number of queries at that meeting regarding UDZs and the feedback of Irish Planning Institute members, we are providing the additional observations on the Urban Development Zones below to the Department of Housing, Local Government and Heritage and also making them available to the Committee. Our members have extensive experience in the implementation of planning schemes, most notably SDZs and we have drawn on that experience in our comments on the UDZs portion of the legislation. It is not intended to comment further on the Land Value Sharing aspects of the Bill, which was addressed at the Committee.

1. Purpose and Evidence

- 1.1 It would appear that Urban Development Zones (UDZs) are intended, by the present Heads of Bill, to replace Strategic Development Zones (SDZs). Recognising that SDZs were originally envisaged as a tool for large employment/enterprise projects rather than housing development, it is important to clarify the purpose and intention of UDZs.
- 1.2 In the Regulatory Impact Assessment document that accompanies this General Scheme, it is stated that many of the existing SDZs have not developed in a timely manner as originally envisaged. However, the reasons for this have not been outlined and further clarity is required as to why a new form of development zone, the UDZ, is being put forward as a replacement for SDZs, rather than updating and changing the current SDZ legislative provisions and using existing development plan/core strategy and development management processes – while allowing for some special measures for some strategic sites. This may also include testing ‘UDZ’ versus ‘No UDZ’ scenarios to case study sites. The experience of members in SDZs is that they have been cumbersome to prepare and operate, with development happening outside SDZs at greater speed and density than within. This would indicate that they should be used sparingly.
- 1.3 Where SDZs have worked best is where there is a single landowner (preferably the Development Agency) and where they relate to large single purpose projects (e.g. Grangegorman). It is not clear how implementation issues with SDZs are taken into account in the UDZs proposed under the present Heads. Based on the experience of members these include, for example:
 - Local authority resourcing constraints and procurement delays.

- Variations in the wide range of expertise required amongst Planning Authorities and Development Agencies.
- Issues with the availability and mechanism for funding infrastructure. That funding of infrastructure is essential to new large development 'zones' appears to underpin the UDZ. However, there is no detail of how this would be addressed to make it any different to what is achievable under SDZ.
- Unwieldy legislative requirements including for SDZ amendment.
- Potential for schemes to be overly prescriptive without the necessary information or consideration of physical constraints, the separate operational requirements of utility providers etc. or changing standards.

1.4 Before UDZs are enacted, there needs to be a full understanding of the efficacy of SDZs, based on past twenty plus years' of practical implementation experience. This should consider the perspectives of SDZs and the potential of UDZs from the point of view of first parties (landowners/developers), second parties (Local Authorities/Development Agencies) and third parties (neighbours and communities). In particular, how these processes afford priority to strategic sites, and deliver outcomes that cannot be achieved through other planning mechanisms should be considered. Given the rise of legal challenges against all forms of development and the increased risk of legal challenges to untested new legislation, the ability to deliver in UDZs could be significantly delayed arising from judicial review, which could hamper the delivery of compact growth.

2. Implementation

2.1 The Institute welcomes the concept that the initial focus for an UDZ should come from the planning authority's development plan, or from regional assemblies. Establishing statutory City/County Chief Planner roles with cross cutting corporate functions, as recommended by the Joint Committee on Housing Local Government and Heritage's Report on the Pre-Legislative Scrutiny of the Draft Planning and Development Bill 2022, could ensure such authorities have the capacity to deliver on their potential.

2.2 A core issue with the concept of SDZs and now with UDZs is that there be maximum public participation and involvement at the earliest stage. Indeed, this is a core concept with the proposed new Planning and Development Bill, which advocates a 'plan-led' process. It has been the norm for An Bord Pleanála to provide for oral hearings in relation to approvals of the SDZ schemes. The Institute is therefore concerned that the proposed Bill would seek to delimit the discretion of An Bord Pleanála in whether or not to provide for an oral hearing in the case of UDZ schemes (S.171AL(14)(b) refers). The Institute considers that this is a retrograde step, and therefore recommends strongly that this particular subsection be deleted.

2.3 The Institute supports the proposed provision, whereby the land value sharing contribution is taken into account in the calculation of compensation for compulsory purchase (S. 171AQ refers), but considers that it should apply to ALL zoned land which is being acquired compulsorily by local/planning authorities, for any of its powers and functions under the planning acts, and not solely apply to lands within an Urban Development Zone. This change would allow planning authorities to carry out active land management in order to encourage the carrying out of development, particularly where there are multiple ownerships and in situations where some landowners are unwilling, or unable, to bring forward their lands for development. These issues apply not only to lands within SDZs/UDZs, but to zoned land generally. This change would require amendments to other Acts, and to the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended, in particular.

- 2.4 The Institute, while acknowledging the principle of defined time limits for decision making, considers that a number of the timelines set out in this Bill, for the various stages, are optimistic and will need to be reassessed as to their workability, particularly in the context of the limited staff resources available in local planning authorities and the need for accuracy. For example, the timeline for the appeal against an approval of a UDZ development scheme, at 16 weeks (in S. 171AL (13)), is unrealistic for such a complex document, often involving many individuals and interests. There are parallels with complex Strategic Infrastructure Development cases, suggesting that they should reflect SID timelines and whatever time limits are set in the final Planning and Development Bill.
- 2.5 The legislation should allow for the option for longer consultation that does not impact on the time for the preparation of the chief executive's report. There will likely be substantial variations arising from these and the current timeline does not appear to give scope for the Planning Authority to have a public consultation over four weeks.
- 2.6 While acknowledging the need to promote the use of Irish for official purposes, we believe there should be consideration of a specific legislative provision disapplying the requirements of the Official Languages Act in relation to the publication of UDZ schemes and frameworks, reflecting the long lead in times for such complex and technical documents to be translated.
- 2.7 In S. 171AO(b)(ii) the reference to 'already developed' should be removed as if future UDZs are likely to be brownfield lands and terms like this are unclear and unhelpful in that context.
- 2.8 The overlap between the Planning Framework and the Development Scheme also requires clarification in S. 171AK, while also highlighting that the information threshold required is very high – for example in S. 171AK (2)(k) sequencing of proposed development rather than timescales may be more practical while the requirements of S. 171AK (2)(j) may either not be feasible at this stage or may change quickly, particularly without an objective for the Planning Authority to work collaboratively with landowners and the State to fund the delivery of the scheme. The Development Scheme should be consistent with the Framework, not 'generally consistent' and it is essential that the content of such a Scheme provides certainty to all participants in the process as to what is, and is not, allowable within a UDZ while recognising the need for some design innovation, changes in standards and technologies etc. For example, the Scheme could specify a target population to be reflected in the building form allowing for design solutions within minimum and maximum heights for buildings, and also minimum and maximum residential densities, together with maximum non-residential floor areas, while avoiding vague phrases such as 'building height envelopes', that would be open to varying interpretations and generate uncertainty.
- 2.9 Similarly, regarding planning framework content, the Heads set a high information threshold. Regarding S. 171AH(2)(d) the requirement to include the overall quantum of development could involve masterplanning out the entire lands at the planning framework stage. The development standards and land use locations should provide context for planning applications as they come forward. The requirement for an overall quantum, ranges of building heights, densities etc. likely requires full masterplanning of lands to ensure consistency across the parameters and is akin to the preparation of a Planning Scheme for a SDZ. A lighter approach is needed for a planning framework. Also, with brownfield redevelopment as the focus, mixed use will be key and intensity of development is better measured by plot ratio and site coverage for mixed use than density. In addition, there is an absence of consideration of employment and retail floorspace in the requirements list. Both are required in proximity to housing for sustainable travel patterns and policy is needed on need for an evidence basis for approach to retail and employment in UDZs.

- 2.10 It would be beneficial if some transitional arrangements were put in place to cater for S. 34 applications which were made under the Planning Framework but where a subsequent Development Scheme has been adopted after the application has been made and to avoid any effective sterilisation of land before the Schemes comes into place.
- 2.11 It should be considered whether the Minister should direct the Planning Authority to choose either Option A or B. Furthermore, regarding Option B – Development Scheme and a Framework – the process is not clear for the Planning Framework in this Section. Can the members make the framework and not the Development Scheme? Are they required to be presented as 2 documents for public consultation and then 2 decisions? One of which can be appealed? The Option A timeframes are different to Option B so does running both in parallel mean a different time frame for the Planning Framework than the Development Scheme?
- 2.12 How linkages between UDZs (via Planning Framework/Development Scheme) and the Development Plan cycle will work in practice require elaboration to allow for certainty while also allowing necessary changes. It should also be requirement to maintain a Planning Framework and/or a Development Scheme as part of a Development Plan for an area with a UDZ Order. It should also be clarified if a Development Scheme can be appealed after it is remade in each Development Plan process and the status of the existing Development Scheme if a revised one is under appeal and the potential for conflicts between amended Planning Frameworks and the Development Scheme. Provision for a process to vary a Development Plan to amend the Planning Framework may be beneficial. Again, criteria and a separate process may be useful to prevent a full remaking of a Planning Framework via a Variation.
- 2.13 Ensuring UDZ Schemes both provide a strategic approach and necessary certainty for all parties while also being regularly reviewed is critical. This should ensure responsiveness to changes in national and regional policies.

3 Conclusion

Thank you for the opportunity to raise these matters with you. The Institute would be happy to meet with you or your officials to discuss any aspect of the above further.

Yours sincerely,



Mary Mac Mahon MIPI
President

- Cc Clerk, Joint Committee on Housing, Local Government and Heritage
Cc Claragh Mulhern MIPI, Department of Housing, Local Government and Heritage