

DÁIL ÉIREANN

AN COMHCHOISTE UM THITHÍOCHT, RIALTAS ÁITIÚIL AGUS OIDHREACTH

JOINT COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERITAGE

Déardaoin, 10 Feabhra 2022

Thursday, 10 February 2022

Tháinig an Comhchoiste le chéile ag 5.30 p.m.

The Joint Committee met at 5.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Joe Flaherty,	Victor Boyhan,
Paul McAuliffe,	John Cummins,
Darragh O'Brien (Minister for Housing, Local Government and Heritage),	Mary Seery Kearney.
Cian O'Callaghan,	
Eoin Ó Broin.	

Teachta / Deputy Steven Matthews sa Chathaoir / in the Chair.

Planning and Development Act (Exempted Development) Regulations 2022: Minister for Housing, Local Government and Heritage

Chairman: The committee is meeting to consider the Planning and Development Act (Exempted Development) Regulations 2022. I welcome the Minister, Deputy Darragh O'Brien, to the committee. He is accompanied by Mr. Colin Ryan, senior adviser on national, regional and urban planning policy at the Department of Housing, Local Government and Heritage, and Mr. Terry Sheridan, principal officer of the planning policy and legislation section. The committee has had the opportunity to look through the regulations. I invite the Minister to address the committee and we will then move to questions and answers. It is quite a short meeting, so I remind members to be direct with their questions, if possible, and the Minister to be direct with his answers. That would be helpful.

Minister for Housing, Local Government and Heritage (Deputy Darragh O'Brien): I thank the Chairman for the opportunity to discuss with the committee the Planning and Development Act (Exempted Development) Regulations 2022. There are certain specific items to address within the regulations. The proposed regulations amend provisions in the principal planning and development regulations 2001-21 relating to development that is exempt from the requirement to obtain planning permission. Under the Planning and Development Act 2000, as amended, each House of the Oireachtas is required to approve draft planning regulations relating to exempted development by way of a positive resolution before they can be signed into law by me, as Minister for Housing, Local Government and Heritage. That is why it is important that consideration by the committee today of these draft changes to regulations is part of that approval process. I appreciate the time afforded to the matter by the committee.

The Planning and Development (Amendment) (No. 2) Regulations 2018 came into operation in February 2018 and were introduced under the previous Government's Rebuilding Ireland plan. They provided for an exemption from the requirement to obtain planning permission in respect of a change of use of certain vacant commercial premises, including vacant areas above ground-floor premises, to residential use. I will go into a little detail on this. The measure has facilitated the productive reuse of qualifying vacant commercial buildings as homes, while also facilitating urban renewal and bringing on stream increased housing supply. We want that to improve further. I want to extend those regulations out.

I know the committee has done a significant amount of work on and the Government is serious about tackling the scourge that is vacancy. I have visited many areas across the country, including many regional towns, cities and villages. I recently visited Waterford with Senator Cummins, where I saw some of the excellent work being done there to bring vacant properties back into use. As part of that, we want to see what other vacant properties we can bring back that we can exempt from seeking permission. An obvious category of such properties is that of vacant public houses. That was clear after my trip to Waterford with Senator Cummins, as well as my trips to Limerick and other locations. Unfortunately, there will be more vacant public houses. Many public houses are prominent buildings in towns, villages and cities across the country. To me, it makes eminent sense that those public houses will fall under these exemptions. That is what I am proposing fundamentally to the committee.

One aspect is to extend the current exemptions out to 2025 and to add to those exemptions the use of vacant public houses under the existing criteria. That will mean planning permission will not be required to convert those units into residential units. In fairness, all members of the committee, of all different political backgrounds, have regularly and rightly highlighted the

issue of above-shop use of vacant premises. There is more work to be done post these regulations, but it is interesting to see the impact of the existing regulations brought in by the previous Government. The take-up year on year is increasing. In 2021, the most recent full year, there were 283 notifications. Although one does not have to receive planning permission, one does have to notify the local authority within two weeks of commencing the work. There were 283 notifications, which will bring in 676 new residential units. That is not something to be sniffed at, in my view. It is really good use of empty space and vacant properties. In total, since the regulations came into operation in 2018, 1,400 residential units have been brought in. Frankly, I think we can do a lot better. More people need to know about these exemptions.

As regards public houses, there is a real opportunity. There will be a couple of conditions around that. It is effectively introducing a new class into these regulations. I thank Senator Cummins for his input into and intervention on this. We are not seeking to maintain a restriction of 250 sq. m. I know the Senator met with officials on that issue. Such a restriction might be too onerous in the context of what is the licence piece and what is the non-licence piece and that creates a whole complication within it. My clear view - this is a slight amendment to the written statement provided to members - is that we should leave the 250 sq. m restriction aside. I am not proposing to have that 250 sq. m restriction. What I am doing, however, and it is important for larger premises, is ensuring we will maintain the current level of nine residential units. The reason for that is that there are some, though not many, vacant superpubs. It makes sense to me that planning would be sought through a local authority for bigger developments such as that. We will maintain the current maximum of nine residential units in any such structure.

We will extend the exemptions right the way through to 2025. We will bring in the new class, which is public houses, and we will continue to keep this under review. Members can see there has been an increase year on year. There is capacity to do a lot more. I and the Government will be bringing forward other measures, such as in respect of town and village renewal, the Croí Cónaithe fund and grants that will be available but in the medium term it is sensible for these measures to continue and to actually change them in the context of public houses as that can make a significant difference. We will continue to keep this under review.

If the committee endorses what we wish to do, I hope to bring the draft regulations before the Dáil and the Seanad next week to get them approved. We could have them in place by the end of next week. Obviously, we are letting all local authorities and relevant people know. This is a significant step forward. I have digressed from the statement that was provided to the committee. I am sure all members have had an opportunity to read it in detail. The main change relates to the setting aside of the 250 sq. m restriction.

Chairman: All of us welcome these measures. The Minister will know the committee had a series of three meetings in which we considered urban and rural regeneration in towns and villages and measures like these. We will produce a report, which we will send to him, and I hope he will take on board some of its recommendations. It fits well with the objectives of the town centre first approach and many of the objectives in Housing for All.

Deputy Darragh O'Brien: There is one matter I should have mentioned. The draft statutory instrument that was circulated to the committee contains the 250 sq. m restriction, and acknowledging that we will not proceed with that, we can proceed on the basis of a revised statutory instrument, with the permission of the committee, rather than coming back and delaying this further by submitting another revised statutory instrument to the committee. We can do this with the committee's permission. It means the statutory instrument that goes before the Dáil and Seanad would have the 250 sq. m restriction excluded. It just saves the time of having

to come back to the committee again. This would be with the assent of committee members.

Chairman: I will now put that to the committee. Is that agreed? Agreed. As we are short on time, I ask that everyone be brief with questions and answers. I first go to Deputy McAuliffe and-----

Deputy Paul McAuliffe: With Deputy Ó Broin's permission, as I cannot access my folder due to Wi-Fi issues, I ask that he goes first.

Chairman: I call Deputy Ó Broin. It would be great if he can keep questions as tight as possible.

Deputy Eoin Ó Broin: Like other committee members, I welcome anything that will make it easier to convert vacant units into accommodation. I have two specific questions. Will the Minister remind the committee what, if any, other planning requirements are in place? While an application for change of use is no longer required, what else is required? The reason I ask this is because previously the Minister and I, as well as others, called for a one-stop shop to make all the other planning requirements easier. I ask him to remind us of those requirements.

Will he give us more detail on the implications and the rationale for the removal of the 250 sq. m restriction? I am not against it, but it would be helpful to know for the record.

Deputy Darragh O'Brien: I remind members that some limitations remain which, I believe, are sensible. They include a requirement that the property must be vacant for at least two years prior to the commencement of the work. We do not want people closing premises and then saying they will convert them. There are requirements for adherence to the minimum requirements of floor area, as well as storage space requirements and the need for adequate natural light and habitable rooms. There is a good reason for those, which are that we want good quality apartments and homes. It is right it would follow the current standards. There is a maximum of nine residential units, which I have explained. That is consistent with the current exemption and is the reason I kept it at nine. If we are getting into bigger developments than that, which may impact upon adjacent premises or residential areas, it is more appropriate they would go to planning. Obviously, the relevant controls must be adhered to in regard to protected structures and the external fabric of the building. The other item is that the conversion must comply with all building control requirements, including fire safety, and be structurally sound.

On the 250 sq. m issue, this size area would cover most average vacant pubs throughout the country. A vacant building where above the shop is vacant would be exempt anyway, but what we were seeking to do within the regulations was to ensure a person would have to designate that the former licensed piece was under 250 sq. m. Senator Cummins, in his discussions with officials in the Department, both gentlemen who are here with me, outlined a number of specific examples where that requirement would make it too onerous and very difficult to be able to define between one and the other. In the overall scheme of things, we are looking at a small proportion and we have some data from the survey we carried out with local authorities on the average size of pubs, which was 226 sq. m and was therefore under 250 sq. m. That is the reason for the removal of the restriction. It is for ease of implementing these changes. I hope that answers the questions.

Deputy Paul McAuliffe: I might want to ask about town centres and how it will help with rural villages. On the regulations, I hear what the Minister is saying about the removal of the 250 sq. m restriction. My fear was that by having the limit and the number of units, we might

end up going for smaller units of lower quality while those making the conversion might want to have larger units. There is a benefit in the 250 sq. m restriction removal and I welcome that. I had not been aware of the reason before the Minister just explained it.

My concerns are around reassuring people about exemptions. It is tricky to say to people they can have an exemption but we will still have some control. I want to talk about that. Of the external structure, 50% needs to be retained. Am I right in saying most people will not see additional height with this and there will not be additional changes? We are not talking about adding huge boxes on to an existing building and all that. The second issue is how it would fit into the existing streetscape. Will the Minister flesh out how that would work? Third, how would it relate to the development plan? Many councillors have contacted me and said they put a lot of time and energy into a development plan within which there are requirements. How would this dovetail with their development plans?

Deputy Darragh O'Brien: The Deputy made a couple of good points. To address one of them, first, let us remember what we are focusing on. We are focusing on commercial units that have been vacant for two or more years, and we are adding public houses to those. Many of these will be on our main streets in towns and urban areas, but they will be in rural areas too. The exemption applies across the board.

The fabric of the building must be maintained. The idea of altering the facade or adding to the front would not be allowed. The fabric of the building has to be maintained. Any conservation measures, street lines and such issues would all have to be maintained. There is also a requirement that notification be given to the planning authority two weeks prior to the commencement of any works. In the Deputy's area of Finglas or in Santry, Dublin City Council would have to be contacted before the work commences. There is no fear, which residents might have, of major changes to the footprint of these areas.

What is very positive about this is that we are going to be able to try to get people and families back living in these areas. I have seen it happen in a number of towns and villages, such as Fermoy, Waterford, Limerick and Clonmel. There has been some success around this. The take-up heretofore has not been bad. We are looking at 1,400 residential units being provided in what were empty and unused spaces. I believe we can do a lot better than that. This change will help. We will have to keep these measures under review because I want the figure to increase substantially year on year. As the Deputy knows, Housing for All has a real focus on vacancy and getting vacant units back into use, and this is one measure that will help.

Chairman: I call Deputy Flaherty.

Deputy Paul McAuliffe: If I could make one point-----

Chairman: The Deputy is eating into Deputy Flaherty's time.

Deputy Paul McAuliffe: I know many people think this is a rural issue, but slap bang in the middle of Finglas village there is a pub that has been empty for 15 years, which would benefit from this.

Senator John Cummins: They do not drink in Finglas.

Deputy Joe Flaherty: The Minister is very welcome and I applaud him and his officials for this initiative. I know there has been great feedback from local authorities that are very enthused by it. The figures speak for themselves: 283 commencement notices and 676 units. Per-

haps it is more the officials who can provide feedback to us on this, but in terms of engagement from local authorities, do they see particular staff members being appointed to drive this? Is this something we will leave on the shelf. How will we drive it through with local authorities?

Deputy Darragh O'Brien: I thank Deputy Flaherty for his support of these measures. He has made a very good point. On the vacant homes officer positions, which we are expanding through the country to make sure they are individual roles, I see the councils having a real role in this and a focus on it. We want dedicated resources across the 31 local authorities looking at the issue of vacancy. When these changes come through, we will have a campaign around it to make sure there is an awareness of what the changes mean. It will let people, especially existing owners, know what is happening. As the Deputy knows, we will be bringing in a co-ordinated campaign of compulsory purchase. That will be separate to this and will be overseen by the Housing Agency, which will use its expertise to assist local authorities. We have a number of different measures. I mentioned the Croí Cónaithe towns and villages fund, which will provide grants to potential homeowners who will be able to take vacant buildings back, do them up and live in them as their homes. That is what we want.

Senator John Cummins: I thank the Minister, the Minister of State, Deputy Peter Burke, and the officials for taking on board the suggestions on the class 12 and the pubs. It shows what happens when something is identified on the ground, as was the case here. A vacant, derelict pub in Waterford city was being converted into eight residential units under the repair and lease scheme for housing purposes and they were caught in planning for nearly 13 months. It could have been done under regulations if they were in existence. It was fed up through the chain and the Oireachtas committee and now regulations are being introduced to address that. It shows the system can and does work. The Minister needs to be acknowledged for taking on board the suggestions. Having them in place would have caused unnecessary confusion between the planners and the owners of the building and there was no reason to have them in place when they are not in place for class 1, 2, 3 or 6 premises.

Will the Minister address the type of affordable rental scheme that could expand on the repair and lease scheme? There is capacity to deliver more units over and above social leases, particularly in Waterford where we have done so many on the same street. It is to create a tenure mix using the model that is there for the repair and lease. Does the Minister have a thought on that?

Deputy Darragh O'Brien: I thank Senator Cummins. I visited one of the converted pubs in Waterford with the Senator on a wet day. I noted the difference between converting other premises and this. The people doing it informed me of the hoops they had to jump through and it did not seem to make sense. Many other examples were given to me. I commend the Senator for that and for his ongoing engagement on setting aside the 250 sq. m restriction. I am always open to changes within it, as are the officials. We want things to work as well as they can. There is no point in putting up hurdles where we do not need to. We need controls and the measures in this are controls.

The Senator has raised the matter of having more repair and lease type properties in different tenures. I am open to looking at that with regard to cost rental and affordable rental but we need scale to make that work. The Croí Cónaithe towns and villages fund will help. Young and not-so-young individuals or couples will be able to get assistance from the Government to buy those properties. The Government will give them substantial financial assistance to help refurbish and do up that home. That can unlock a lot.

The other thing under Housing for All is the CPO campaign, which I referred to in response to Deputy Flaherty. That will be managed by the Housing Agency. We will CPO properties for public use and for sale back into the market, focused on first-time buyers. A tenure mix is needed, with different types of families and individuals. That is what we want to do. These changes are a step in the right direction on part of it. We will also provide financial support for people to take properties back into use.

Senator Victor Boyhan: I thank the Minister and his officials and they are welcome. It is an imaginative, creative scheme and one I support. I have two or three concerns. We are talking about commercial units, as the Minister has identified. Therefore, we are talking about, in some cases, substantial commercial rates arrears to the local authority. Some local authorities have raised the issue with me and we need to park it somewhere because it is not the intention it should have.

Residential standards have been dealt with. I have concerns about protected structures. I am familiar with the section 57 declaration. The problem with it is there is no public notification. We have a planning notice but there is no site notice for a section 57 declaration. There is no requirement to have one and, therefore, members of the public do not know it. The Minister might ask why one would put up a notice but the section 57 declaration is in legislation. We might look at some mechanism through which to put it on the local authority's website. There is a need to have that because it is important. Prescribed bodies have to be notified of work on a protected structure. Do not make it too complicated. If I was living next door to one of these pubs, I would like to know they were doing something. I am not saying to create another layer of objections but it is important.

The scheme has my full support but we have to address the issues related to whether they are protected structures, the section 57 declaration and allowing members of the public to know about that. Otherwise, it is fantastic. Well done to the Minister.

Deputy Darragh O'Brien: I thank the Senator for his support and note the points he has raised. These units will be vacant for two years or more so rates should not be an issue. We do not want people moving out of commercial into residential because they will get a planning exemption and move on with nine units. Criteria will be set under that. Notification will go to the local authority. I want to keep this simple, as the Senator does.

On the idea of providing lists, notifications and various things, take Dún Laoghaire in the Senator's bailiwick. We have lots of vacant commercial property there and lots of above-shop that is empty. We have to get on with it now try to keep it as simple as possible.

There is a specific condition. In the statutory instrument, it states "No development shall consist of or comprise the carrying out of works to a protected structure[.]" We are not talking about that type of listed building. We will keep this under review.

Deputy Cian O'Callaghan: When will the vacant homes officers be full time in all the local authorities? Does the Minister have a view on a one-stop shop for dealing with vacancy? Can that be brought in? There is a lot of frustration for people going through the different processes and the bureaucracy. The difficulty is not just the costs but the whole process. Has any analysis or assessment been done of any potential downsides of the regulations? If so, will the Minister share that analysis? We are aware of the benefits. If there is no potential downside or concern, why is the Minister looking at a time-limited exemption as opposed to a permanent change?

Deputy Darragh O'Brien: I thank the Deputy. On the last point, if something is left open-ended, people may long-finger making those changes. We have seen an increase year on year. Once the regulations were due to expire, many people asked if we could extend it further. It is important to do it in reasonable medium-sized timeframes. If I was to leave it open-ended, it may not have the focus to suggest we are serious about tackling vacancy now, which everyone is.

On the one-stop shop issue, feedback I get around fire certification and other things like that and going to different offices for different things suggests there is more we can do, particularly on above-shop etc. We are getting better at it. I will keep that under review. Any other changes we can make that will improve the process, we will not delay making them. I would like to see what effect these have and to give a lead time. I think they will be broadly welcomed and there will be a good response, but I stand to be corrected. We are responding to what has been looked for on the ground.

Vacant homes officers are important. I have given approval for 250 new posts in housing divisions in all 31 local authorities. There are 211 outside Dublin and 39 in Dublin. We want the vacant homes officers, as we debated in the Dáil a few weeks ago, to be stand-alone positions. We are creating a vacancy unit in my Department to have that focus. It makes sense to do so. Those parts are being advertised. People have to be interviewed. People have to be employed. Some of our local authorities have full-time vacancy officers in place, but not many. We want to get all 31 up to that space. Some local authorities, depending on size, will need more than one. We will provide that support for them.

Deputy Cian O'Callaghan: The key question was on the regulations and whether there had been assessment about possible downsides. If so, will the Minister share that with us?

Deputy Darragh O'Brien: I might let Mr. Sheridan or Mr. Ryan in here.

Chairman: I am sorry, Minister. If we are going to bring in one of the officials, then we must go into private session.

Deputy Darragh O'Brien: We will not. I will add that we undertook a survey around size in this context and we have not, as far as I am aware, found any downsides. We keep this issue under continual review, but we looked at average size, the number of units and all those aspects, and I have not seen any downsides in the information presented to me. Any analysis we have undertaken - we can share this information with the committee if members are interested in examining it, there is no difficulty whatsoever in doing that - has shown the positive aspects of doing this. We do not have any reports of specific issues having been raised with us to say this measure and the changes we are bringing forward will be in any way negative, regressive or anything like that.

Chairman: I am sorry, but we are out of time in this session. I did not even get a chance to ask my own questions. I thank the Minister for attending.

Messages to Dáil and Seanad

Chairman: In accordance with Standing Order 101, the following message will be sent to the Dáil:

10 FEBRUARY 2022

The Joint Committee on Housing, Local Government and Heritage has completed its consideration of the following Order in draft:

Planning and Development Act 2000 (Exempted Development) Regulations 2022.

Under Standing Order 100(2), the message is deemed to be the report of the committee.

In accordance with Standing Order 75, the following message will be sent to the Seanad:

The Joint Committee on Housing, Local Government and Heritage has completed its consideration of the following Order in draft:

Planning and Development Act 2000 (Exempted Development) Regulations 2022.

Under Standing Order 77(2), the message is deemed to be the report of the committee.

The joint committee adjourned at 6.01 p.m. until 1.30 p.m. on Thursday, 17 February 2022.