

# DÁIL ÉIREANN

---

## AN COMHCHOISTE UM THITHÍOCHT, RIALTAS ÁITIÚIL AGUS OIDHREACTH

## JOINT COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERITAGE

---

*Déardaoin, 12 Bealtaine 2022*

*Thursday, 12 May 2022*

---

Tháinig an Comhchoiste le chéile ag 1 p.m.

The Joint Committee met at 1 p.m.

---

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Emer Higgins,	Victor Boyhan,
Steven Matthews,	Rebecca Moynihan,
Paul McAuliffe,	Mary Seery Kearney.
Cian O'Callaghan,	
Eoin Ó Broin.	

Teachta/Deputy Francis Noel Duffy sa Chathaoir/in the Chair.

## **Planning and Development (Street Furniture Fees) Regulations 2022: Minister for Housing, Local Government and Heritage**

**Acting Chairman (Deputy Francis Noel Duffy):** The committee is today meeting in public session to consider the Planning and Development (Street Furniture Fees) Regulations 2022, which extend the provisions introduced last year exempting outdoor dining locations from street furniture fees.

Apologies have been received from Deputy McAuliffe and the Chair, Deputy Matthews.

No. 1 is consideration of the Planning and Development (Street Furniture Fees) Regulations 2022. We are joined by the Minister, Deputy Darragh O'Brien. The relevant papers have been circulated to members. I invite the Minister to briefly describe the purpose of the regulations.

**Minister for Housing, Local Government and Heritage (Deputy Darragh O'Brien):** Gabhaim buíochas leis an gCathaoirleach Gníomhach, na Teachtaí agus na Seanadóirí as a gcuid ama chun na moltaí tábhachtacha agus dearfacha seo a phlé inniu. I thank the Acting Chairman, the Deputies and the Senators for their time and for affording me the opportunity to present to the committee these proposed planning regulations.

As the Acting Chairman mentioned, they consist of the Planning and Development (Street Furniture Fees) Regulations 2022, which waive section 254 street furniture licence fees for the remainder of 2022 for tables, chairs and associated outdoor dining. As we all know, like many other sectors, the hospital and restaurant sector, and, indeed, the wider tourism sector, suffered the brunt of the measures to manage the Covid pandemic in recent years. I take this opportunity to commend all those and their representative groups on the positive way in which they engaged with the Government and the wider local government sector to work through what was a difficult two years. They are still bearing some of that brunt now. Business is, thankfully, improving but they still require support.

They have been subject to both temporary closures for considerable periods and to other restrictions, which have taken a heavy toll. We are committed to providing the necessary supports to assist these sectors. We have done so already, as the committee will be aware, through approximately €1.5 billion in rates waivers to business, many of which are in the hospitality and restaurant sector. This week, the Government made the decision, which I am sure we all support, to retain the 9% VAT rate at a saving to the sector or cost to the Exchequer of €250 million. When one looks at all the other business supports that we have been able to provide through the employment wage subsidy scheme, EWSS, and various other schemes, billions of euro in supports in business supports have been provided to keep businesses viable and, most importantly, to keep people working in what is a very important sector.

By way of clarification, there is no fee for awnings, canopies and heaters. We have exempted them as well from planning, as the committee will be aware, on a permanent basis. These regulations are extended to ensure that there will be no further fee for the remainder of this year for street licences for installing tables and chairs to facilitate the consumption of food outside hotels, restaurants, public houses and other establishments such as coffee shops. That is being reduced on a time-limited basis for the current year from €125 per table to zero. Furthermore, it remains the position that no fee will be applied on a permanent basis, as I stated already, in respect of awnings, heaters and ancillary equipment.

Under the provisions of the Planning and Development Act, I am required to obtain Oireachtas approval for any exempted development regulations or regulations amending fees for street furniture licences. Before I can sign them into law, I am presenting here to the committee. I am grateful for the committee facilitating the time to do this.

This is an important measure. Relatively small, costing in the region of €500,000, it has impacts on particular local authorities such as Dublin City Council, DCC, and Cork. We are working with them too on that.

This supports the outdoor dining experience for our citizens as well. It supports the continued pedestrianisation of many of our streets, which I very much welcome. I have had the pleasure of visiting many pedestrian streets in my constituency and throughout the country, in Cork, Dún Laoghaire and other places. It is something I would encourage local authorities to continue with.

This defrays some costs allowing businesses to supplement their income by additional dining facilities there. It is a continued measure to support these businesses in post-pandemic times following the effect that the pandemic has had on their bottom line.

Further to today's presentation to the committee, these draft regulations will be subsequently approved by a positive resolution of both Houses of the Oireachtas, as required by the planning Act. They will come into force as soon as they are signed by me, as Minister. If approved by the Oireachtas, it will be my intention to sign the regulations into law at the very earliest opportunity. It goes without saying that I will be happy to take any questions members of the committee have, or indeed comments or feedback.

**Acting Chairman (Deputy Francis Noel Duffy):** We will allow Senator Boyhan to speak first.

**Senator Victor Boyhan:** As I must leave, I thank the Acting Chairman and members for facilitating that. I welcome the Minister, Deputy O'Brien and thank him because I know he has a busy schedule. I do not have any questions but I have some concerns. I want to flag these concerns but first I recognise the constructive, imaginative and responsive approach that the Minister and his officials have taken in terms of addressing the challenges around Covid-19, around business and enterprise and developing new place-making. I know this is central to the Minister's policy and he believes in it himself. I have visited Malahide in the heart of his constituency, and the only thing I would do is straighten the hill but I cannot. It is a great place. You can see the buzz there. However, that presents challenges. I was talking to a number of the people there because I have taken the train many times from Dún Laoghaire.

**Deputy Darragh O'Brien:** Come see me the next time.

**Senator Victor Boyhan:** I will. Will I meet the Minister in the Grand Hotel? It is an amazing place. It is similar in Dalkey, in Monkstown village and in Dún Laoghaire, as well as in other parts of the country. I acknowledge the importance and the significance and I believe it is here to stay. We must be realistic. It is good that it is here to stay. It creates expanded opportunities for tourists but also for us, as people. More people have discovered more about what is around the corner from their house as a result of Covid-19 in terms of open space and public realm and that it is brilliant.

I have two concerns. One is that we do not allow what is a temporarily exempted development to become permanent development. We have seen many badly-designed, hooked-up bits

of wood, timber and awnings which are not very stable. This is grand in an emergency but it is not how we should have it in the long term. I am mindful that if we let things slip, before long seven years will pass and we will have these makeshift structures around the place. I am very conscious of this in areas of architectural conservation but wherever they are, they should be right, safe and fit for purpose. We need to be mindful of that in the long term.

More importantly, my real concern is on disability. There is an Oireachtas Committee on Disability Matters that has strongly advocated for the cleaning up and taking away of excessive street furniture, but more importantly, of A-boards. A-boards are part of this clutter on our streets and I would like to see no A-boards for the next while because every time someone puts up an A-board that says “my shoe shop is here”, the next guy puts up another A-board. I counted 25 A-boards in Dún Laoghaire the other day. I am a former director of the Irish Guide Dogs for the Blind, which is a wonderful charity. We are constantly approached and challenged about what we can do. The Disability Federation of Ireland, DFI, is another organisation. There is an awful lot of street clutter. We know from public bodies and insurance companies that there is an excessive amount of claims in regard to public space and the public realm. All we can do is put in measures. I am not saying this needs legislation. It needs a conversation with local authorities to ascertain how we can stop the proliferation of A-boards, particularly in the interim while this is going on. There is no need for them, quite frankly. The second, question is how can we do a safety audit. Most local authorities have a disability officer. I suggest a simple letter from the Minister to the local authorities asking their disability officers to audit these structures on an ongoing basis, just to be sure they are not presenting an issue for children in buggies, people with disability and hearing- and visually-impaired people, because it is a genuine concern and a challenge for them. We need to be mindful of that and address it.

I have also seen a number of temporary, disabled parking spaces being taken out by local authorities. I am shocked. In Dublin, local authorities have taken out – I photographed them on my phone and I can share them with members – disability bays and have put up temporary flooring to facilitate the extension of the footpath. Now we have a situation in some shops in Dublin city and county where the space we had for public realm seating has now become an area for displaying vegetables. Some, only some, greedy retailers are taking advantage of that. We need strict guidelines but it is about working practically with the disability officers and the local authorities to ensure it is monitored.

That is all. I am not against it and I support the whole thing. We do not need a whole plethora of legislation. Let us keep this simple but let us engage and say to the local authorities that this is a challenge. It is on a temporary basis. It may go onto a permanent basis in the long term. That is my concern for the disability sector and for people with buggies and so on. We should be mindful not to develop some sort of a precedent or misunderstanding that these could become permanent structures without the proper and necessary planning consents. I am supportive of it and will wrap up with the point that it is about engagement in the communication with the local authorities that they be mindful of these particular challenges. I thank the Minister and his officials for coming to the committee.

**Deputy Darragh O’Brien:** I thank the Senator for his observations and his questions. I very much appreciate his broad support for it. We have been clear with local authorities. Accessibility, particularly for those who may be physically impaired in any way is really important. To go back to the letter to the committee from back in July 2021, we have been clear that is why the licensing system is in place. It is so that someone would apply for a licence along with the plans and it is intended to ensure that a planning authority can control appliances be-

ing placed on public roads or footpaths in particular to prevent obstructions or other hazards to persons using the public road or footpath. The responsibility is with the local authority in the assessment of the licence application or indeed in the granting of a further extension to a licence that may have expired. That still pertains there. I will come back to the issue of clutter because that is a bugbear of mine too.

A section 254 licence application has to ensure that the wider area is accessible, usable and convenient to all those who wish to use or pass through it, while also ensuring that any alternative street lay-out arrangements proposed in order to facilitate further outdoor dining such as relocation of designated, accessible bays on temporarily pedestrianised streets are appropriate and fit for that purpose. I have seen cases where some accessible bays have been moved but I can speak for my own local authority, Fingal County Council, as I know the position well in Malahide. It has been able to reassess where the accessible bays are and to move them to more appropriate places. I can assure the Senator that they have all been replaced. Across every local authority, if anyone has an example of any disabled-access parking place, if one is used for another purpose, it is replaced in order that there is no reduction in their number whatsoever. It is clear under the Planning and Development Act 2000 that under this licence arrangement, licences have to be sought but the convenience and safety of road users, including pedestrians, is paramount.

I have also seen cases where local authorities have now moved on with more permanent plans. I have been in Princes Street, Cork. Cork City Council has done a fantastic job in bringing the streets back for use for the people, and frankly, taking cars off the streets. We need to be doing that anyway. In my view, one of the advantages to come out of dealing with an emergency situation like Covid-19 is that we have been able to expedite some of these measures. Dún Laoghaire-Rathdown County Council did superb work in the Senator's area in regard to accessibility and active travel. We want to see that. Deputy Cian O'Callaghan will also know this from the experience in Dublin Bay North, and the work that has been done throughout the country. I encourage local authorities, which have the funding to do it, to look at permanent plans to improve the public realm. We have to do it. I have seen it myself. I will use the example of my own home town that Senator Boyhan referenced where, for example, in New Street, Malahide, you will see families, kids on bikes and on scooters and people of all different ages having a cup of coffee or a bite to eat. It actually takes a road space that had 39 parking places and traffic going up and down and gives it back to the people. It takes a while. Some people are wary of change and that is fine. We have to work with people as we work through change, but it works and it supports business. We are supporting business because we are supporting jobs. We support vibrant towns, villages and city centres. Look at Capel Street in Dublin, a place that was clogged with cars is now more accessible. I can assure members that the principle behind all of this is to make sure that it is accessible for all our people and that no hindrance is put in the way of people who have issues with access.

As for the A-boards, it is a bugbear of mine too. Some local authorities manage very good by-laws in that regard. Fines may be issued and there are other ways of advertising where premises are. That is managed through each roads department within local authorities. We have no difficulty with the suggestion, and although it is a function of the local authority, we could encourage them further in that space. I thank the Senator for his support and observations. I wish him a happy birthday as well, if he does not mind me saying it before the committee.

**Senator Victor Boyhan:** I thank the Minister.

**Deputy Darragh O'Brien:** I thank the committee for its time and indulgence here today.

**Senator Victor Boyhan:** I appreciate that.

**Deputy Paul McAuliffe:** I must go next door for 1.30 p.m. so I apologise for not being able to stay for the rest of the meeting. Changes were made as a result of Covid-19 and they arose because of an unexpected situation. They have given us the opportunity to re-examine this area of public policy, particularly for councillors around the country who deal with the question of street furniture in general. In Ireland we have far too much street furniture and sometimes it is inadvertent, such as it is with junction boxes, bollards and all sorts of things that different sections of each local authority often put in. When it comes to adding street furniture that might animate a space, such as tables, chairs, benches and so on, sometimes local authorities are very conservative. One of the issues the authorities cite for the conservative approach is that national legislation outlines the fees and process for applying to use these kinds of tables and chairs.

I would like us to get to a point where we devolve this function entirely to local authorities. I am not certain why we need national legislation to regulate tables and chairs on streets. If we cannot let local authorities do it, I am not sure what we can let them do. I very much have confidence in them in doing that. In 2014, as chair of the economic committee on Dublin City Council, I dealt with a report on table and chair usage in outside areas. We found that there may be places, particularly in outer suburbs, where we would want to put table and chairs to animate villages because we wanted businesses to thrive but to do it in places like Raheny, Finglas or Ballymun, businesses had to go through the exact same procedure and process as somebody who wanted to do it on Grafton Street. There was no recognition that these were totally different requests. In one case it may have been about retailers taking public space and using it for profit but in the other, such action may form part of a broader push by a community to make villages better.

I appreciate this can be a very contentious issue between retailers, even if it is just about pedestrianisation. It is really not a space in which the Minister for Housing, Planning and Local Government should be involved. It is a space for local authorities. I say to the Minister that, when it comes to the trajectory of the matter, I would like to see this responsibility completely devolved.

We would have to see some uniform standards, and the points made by Senator Boyhan, including around disability concerns, should be paramount. We must be very careful not to do anything against them. Equally, we must recognise the space we are discussing is public so there should not be a for-profit advantage to be gained for one retailer over another or different forms of competition.

Nevertheless we want to animate our spaces and have a night-time economy. We have very restrictive national legislation that limits a local authority's ability to create an outdoor food court at night. There would have to be a process for an event licence or casual trading licence. This is something I would like to see the local authority doing rather than the Department. I hope it is something we will be able to get to over time.

**Deputy Darragh O'Brien:** I thank the Deputy for his comments. He mentioned communities, and where any of them want to install street furniture, seats, bedding or whatever else, the local authority does not need a licence. I encourage any groups to enhance their public space.



Much good public realm work has been done throughout the country and there are very good plans in our towns and villages, both rural and urban. Community groups are encouraged to engage on that and see what they want. The local authority, based on agreement, can move forward and does not require a licence.

I know the Deputy knows that today we are seeking to extend the waiver of the fee. That is to support retailers and jobs in a particular sector that has been so badly affected by Covid-19. Secondary to that, we have used the opportunity to look at how we can use our spaces better. The legislation outlines the process and the licensing process in the local authority. Effectively, the decision-making on the granting of a licence is a devolved power to the local authority because the authority is in a better position to make that decision. It will know that one street is better than another and what is appropriate in terms of accessibility, along with what business and types of functions can happen.

The measures around pedestrianisation through the Covid-19 period have been broadly welcomed. In some cases they were initially contentious but people have seen how they worked right through the winter and not just in summer months. It is about making our towns and villages-----

**Deputy Paul McAuliffe:** I appreciate the differentiation in the local authority's involvement. There is still too much specification about what needs to happen for someone to apply for this. For example, there is a big space in Ballymun with the plaza and the Axis theatre. I have no doubt they could put out tables and chairs on the plaza and it would make things safer and there would be passive policing. These are all positive, but to do this, the parties involved need to put a notice in the newspaper, apply to the local authority and give a drawing of where they would put everything. The fees are specified in legislation but I know we are waiving them now. Overall, it is a level of central control that the Irish State is hooked on. I do not see why we should establish that type of both process and fee structure at a national level. I would like to see it at a local government level with protection for people with disabilities.

It is not what we are discussing today and I welcome the waiver because it gives us more time. Getting to a point where we look at this again, I would not like to see a national fee but rather a fee structure or the freedom for a fee structure allowing us to incentivise this work. In some cases it could be the council going to businesses and asking them to put out tables and chairs because it wants streets to be more animated. It may want more tables and chairs in an area that is difficult to police because it might add to passive policing. It may not be about businesses looking for profit but rather local authorities trying to animate the space.

**Acting Chairman (Deputy Francis Noel Duffy):** I will cut in because the Minister is tight on time.

**Deputy Paul McAuliffe:** Apologies.

**Deputy Darragh O'Brien:** I have two other committee meetings today but it is fine. I take the point made but the Deputy can trust me when I say we are not trying to micromanage anything at a local authority level. The devolved power on decisions is for them. Taking the Axis theatre and the plaza in Ballymun, which I know well, if that centre makes an application, it will need to give some view or picture through the licence application to Dublin City Council of what it will look like. That is required for assessment of disability access etc. The process has been pretty efficient over the past two years and we have learned much from Covid-19 in that space about how we can be pragmatic and efficient. Most important, we have seen how

people get benefits from this. It is not just a measure for profits in retailers in any way, shape or form and it is about giving our public spaces back to people.

**Deputy Paul McAuliffe:** I know the Minister has inherited the legislation but I am saying there is an opportunity to do something we have not done before or in a long time. We could devolve more power to the local authorities and it is one thing we could do. I know it has been done in housing, for example, and we should do it more.

**Deputy Eoin Ó Broin:** I apologise as I had to pop out to do some radio. I fully support the extension of the waiver. It is a very sensible move and we supported it when it was introduced. One of the very positive actions in the past year or year and a half is that we have seen these measures and the difficulties of many businesses, especially bars and restaurants, in having to try new things. Those new things have proven that outdoor activities work. We were speaking earlier about the example in the Minister's constituency of Malahide. The work there is wonderful and brought much vibrancy to that part of the village. There are also examples in the city centre here, including on South Anne Street, South William Street and Capel Street. It is really good to see and, in fairness, I acknowledge it.

It is important as we move ahead to ensure this continues to be done right. I have five very quick questions that I would not mind the Minister responding to. They do not necessarily speak specifically to the extension of the waiver but they are relevant to it.

Despite the waiving of the licence fee, we are getting much unlicensed street furniture, which causes all sorts of difficulties in managing that furniture etc. Is the Minister aware of that problem and is the Department discussing with local authorities about how best to address it? The particular problem is with people who are visually impaired or other mobility issues. It is really important when we do the right thing with outdoor activity that we do not in any way inhibit what is already a very difficult environment for the visually impaired or wheelchair users etc. Is that something the Minister or his officials are concerned about and thinking about?

There is an issue around protected structures and awnings. It is not that I want to be in any way restrictive but we need to manage this stuff right, especially in areas where we have very valuable built heritage. Has the Minister any thoughts on that and particularly the position from January of next year?

Another concern I have is not far from here some entrepreneurial drinks manufacturers have started providing the partitions for the outdoor spaces and are using these as free alcohol advertising. That is contrary to both the letter and spirit and policy of Government policy and legislation. Is that something the Minister is aware of or concerned about and is there something that can be done to ensure it does not happen?

My final point is that it will always come down to the fact all these things are only as good as the ability of the local authorities to manage them, process the licensing and enforce them. I spoke to officials in a number of local authorities yesterday and today. They are concerned their enforcement and licensing capacity is limited. Dublin City Council, in particular, has concerns as it is losing many staff to other local authorities. Is the Minister satisfied there is appropriate staffing there? Where local authorities are looking for additional staffing to manage this how can he assist them?

**Deputy Darragh O'Brien:** I thank the Deputy for his continued support for these measures. We appreciate it.



Unlicensed street furniture is an issue in places. I am aware of it. To answer his question directly, the Roads Act allows the local authorities to remove material on the public road, or indeed the pathway, that is unlicensed. That requires resources - to speak to the last point the Deputy made - to have the capacity to do so. We have engaged with our local authorities. We have over the past year, as he will see, provided further posts, especially in the housing area. There are approximately 350 right across the country. We are working through the Local Government Management Agency, LGMA, and County and City Management Association, CCMA, to see what further resources will be required in this space. It is kind of acute in our own city of Dublin, Cork, Galway, though it has a better tradition of pedestrianisation, and others. We are engaging. I am particularly conscious of DCC because much has happened very quickly. We discussed this with officials as well and are engaging through the CCMA and LGMA, with DCC and any other local authority that feels it needs further assistance in this space by way of resources. I assure the committee and the Deputy that any reasonable request for additional resources in this space will be met positively.

**Deputy Eoin Ó Broin:** If I could add one point for the Minister's consideration, the last thing DCC wants to do is to have to enforce by removing outdoor furniture, for example, because the public will not necessarily know somebody had an opportunity to apply for the licence for free, was given several reminders and did not avail of it. DCC gets a bad enough rap for all sorts of things. Some of them are its fault and some are not. It is important the public know at this point in time businesses are being given the opportunity for outdoor furniture for free and, therefore, there is no reason somebody should not have a licence at this point in time.

**Deputy Darragh O'Brien:** It is a good point. I agree completely. We need to ensure this affords an opportunity for us to further advise people and publicise the fact the regime is being extended and people can apply. They can apply for new licences and extension of licences and those will be granted where appropriate. It speaks to what Deputy McAuliffe was saying earlier. It is devolved to the local authority officials as they are the best people to make the decision and we are not putting in street furniture in places that are inappropriate or going to hinder people in getting about their daily lives.

On protected structures and awnings, I mentioned in my opening statement that we have exempted outdoor heaters, awnings and so on full stop. If a person wanted to put an awning on a protected structure he or she would require planning permission.

**Deputy Eoin Ó Broin:** Okay.

**Deputy Darragh O'Brien:** That is something we were careful in doing. With some areas of architectural conservation, protected structures and so on planning permission will be required. It is an important point and I am glad to have the opportunity to further clarify that here.

The point about the use of the partitions being mainly used by drinks firms is interesting. I have seen it right across the place. It is something I will raise. The Government, and in fairness the Oireachtas, have moved in a direction on drinks advertising that we all support. Over the past two years, many of the larger drinks manufacturers provided awnings, umbrellas and various other items free of charge to businesses that were struggling. We now need to look at how we can use a more uniform approach. In some counties they have. New Street was referenced. The Deputy will see the local authority has provided the street furniture as well as the awnings and partitions in order that they are uniform. They look better, frankly, as they are not a mish-mash of various drinks brands and so on. Again, that is something some local authorities have been pushing and others have not. I take that point and will pursue it.

**Deputy Eoin Ó Broin:** I thank the Minister.

**Deputy Emer Higgins:** I thank the Minister for being here to talk us through this. In many ways the hospitality sector was almost accidentally revolutionised by restrictions during Covid. Just last December I found myself having a late-night drink outdoors outside Courtney's in Lucan, one of my locals. I would never have dreamed of doing that during the height of winter a couple of years ago and I'm sure Courtney's would not have dreamed of offering it as somewhere to dine at that point in time. It is cold, it is dark, it does not make sense and yet it does. It is completely and utterly practical. It makes sense from a business perspective and creates a very enjoyable and, at the time, safe social experience.

Many businesses in the hospitality sector used that as an opportunity to increase their footprint. Some of them did it in car parks or in backyards. I am thinking of the graveyard in Kenny's in Lucan. Others did it spilling onto the streets. That is the street furniture aspect we are discussing in the context of our public spaces. During Covid, we all got to see the value of the public realm. Local authorities up and down the country, including my own South Dublin County Council, invested hugely in the upkeep of the public realm during that time when we as a society really needed it. Street furniture injects vibrancy into villages and for that reason what the Minister is bringing is really welcome. However, it only injects vibrancy when it does not spill out onto the street in a way that becomes a trip hazard or in any way inhibits accessibility and when it is aesthetically pleasing and fits with the character of a village. Thinking in particular of the winter months when some places might store their items up, we should not allow dismantled outdoor areas on footpaths. We need to ensure that is not happening but I absolutely welcome this.

**Senator Mary Seery Kearney:** My addition on that has to do with enforcement. I fully support these measures, the extension of them and their possibly being made permanent. It has led to a resurgence of the hospitality industry and to a very positive public space and amenity. However, at the same time during Covid we have seen a proliferation of coffee bars popping up in former car showrooms, car parks and areas that are not aligned to existing hospitality provisions. It is not aligned to particular bars or restaurants at the moment but places that were not heretofore hospitality venues. I am a little concerned that in the new culture we are embracing we are discriminating and setting businesses back, or perhaps with a lack of enforcement facilitating unlicensed competition for existing premises and service providers. This is by virtue of our now having this casual provision that is not, in many cases, going through proper licensing and is not subjected to the proper provisions, even though they look like they are. It is aligned to this so I would welcome the Minister's comments on that.

**Deputy Darragh O'Brien:** I thank the Deputy and Senator for their comments. Deputy Higgins is correct when she refers to places being used that one would never have thought would be and referenced two bars in Lucan. It helps them and also improves the experience for people. It makes them more accessible in many instances and uses space that was not used before. The Department with responsibility for enterprise worked with my own Department and, as members have seen, a lot of parklets were put in through Covid. To be honest, some of them could be improved on in terms of how they look, but their retention should be considered and I encourage local authorities to do that rather than deciding to remove them now that the pandemic is over. Frankly, we can do with fewer car parking spaces and we will have to do that - to change how we do things - if we are serious about the active travel piece, which we are as a Government and an Oireachtas. I do not want spaces that have been used more productively being given back over to cars. I encourage local authorities to consider how best they can make

permanent the measures that were taken through Covid. They should do so through the proper processes and with the aim of improving our public realms throughout.

Senator Seery Kearney mentioned enforcement, which is really important. A local authority can withdraw a licence if the holder does not adhere to the conditions of the licence. Local authorities need the resources to do so and we will provide them where they have insufficient resources. I have seen the proliferation of coffee bars and vans and things like that. They served a great purpose right through Covid. There is a coffee bar at St. Sylvester's, my local Gaelic games club. It is run by a couple of lads who are doing a great job. They are getting an income and the business is licensed. No one would have thought of that before. I could pick 100 such businesses. I take the Senator's point in respect of unlicensed operators who may be competing against ratepayers. That is something we have to balance. I take that point completely. That is the reason for licensing and the fact that carrying out a commercial enterprise in a particular area, for example, requires planning permission.

People's outlook on how they shop, dine, get a cup of coffee and go out and about has been really positive through Covid and we want to harness that. What I want to do with this one small measure, added to a lot of others, is to make it easier for people to do their business outdoors and to be able to walk or cycle to places safely, park their bike and have a cup of coffee or tea. I am grateful for the support of the committee in this regard. As I stated, I will certainly take members' comments on board. We have an opportunity now to harness the good things in the context of how we managed our public spaces through Covid and make them more permanent.

**Acting Chairman (Deputy Francis Noel Duffy):** I thank the Minister. The Green Party will forgo its speaking time. I might get a comment in at the end.

**Deputy Cian O'Callaghan:** I very much support the waiver and all the work that has been done on it. Some very good points have been made in respect of the importance of enforcement and how it has to be resourced to ensure this does not impact on people with disabilities. We have seen that public space being put back into public use works best when it is done in a managed and planned way. New Street in Malahide is a very good example of that, as is Dún Laoghaire and what has happened in Cork city. That is not to take away from what others have done elsewhere. When it is done on an *ad hoc* basis, however, it can be a bit more chaotic and create more problems. Local authorities should be encouraged and resourced to do this in a planned, coherent and managed way. That is the way to go and it should be supported.

I wish to ask the Minister about two related measures he is bringing in. This is very much about putting life back into towns, villages and public spaces. He recently announced that he is getting rid of the full rates refund that many local authorities sometimes got in the context of vacant commercial units. That is a very welcome measure. I flagged with him previously that there is a loophole, especially in the context of newer commercial units that may have been built ten or 15 years ago but are not fully completed. They are still considered shells and my understanding is that they have never been subject to rates, so they escape from paying rates and, potentially, from the measure being considered by the Minister. Does he have a plan to shut down that loophole? How will he address it? It is important that he does so.

I refer to the other measures he announced recently in terms of getting more development into cities through the Croí Cónaithe fund and the subsidies for developers in the context of apartments and viability. Developers consider a viable project to be one including a minimum of 15% profit margin. Will that viability allow for that 15% profit margin? What measures will be in place to curtail that? What is the view of the Minister in that regard?

**Deputy Darragh O'Brien:** I thank the Deputy for his support for these measures. As regards the first issue he raised, some local authorities have taken a very good and planned approach, with uniform barriers and awnings and that type of thing. We want to encourage that because it improves aesthetics. Other local authorities need support to make sure that is improved and we will do that. There is a need to consider uniform measures and what best suits the town or village. We have learned a lot in the past two years. In fairness, much of it had to happen very quickly. It was right and proper that it happened. We can now refine it.

As regards the commercial rates waiver for vacant units, I am serious about doing that. I noted the Deputy's comments in this regard in the Dáil when we were debating this issue last week. The current situation is that owners of vacant commercial properties in most local authorities may have a right to a refund of up to 100% of their commercial rates if the premises are vacant, they cannot get reasonable rent or they are planning to redevelop the premises. Using new regulations under section 9 of the Local Government Act, however, I intend to restrict that use of commercial rates vacancy refunds, although I will give local authorities discretion in that regard. It may be reasonable to allow a refund, such as in the case of a power station, for the sake of argument. I refer to the power station in Lanesborough that is currently vacant. We have to work through it. It seems simple to say that we do not give a rates waiver on anything that is vacant. We are going to give local authorities the ability, however, to say that a shop is not open, has not been open and is not finished.

As regards the point in respect of what were seen as newer developments that are not completed, *mar dheá*, I am considering that too. The Deputy referenced Clongriffin in particular in our previous discussion on this. It is a valid point. There are units that were built there in 2008 or 2009 that are still not occupied and are availing of the refund. We are working through this right now. We flagged it. It will start from next year. We will need that lead-in time. In effect, it will give local authorities the ability to tell property owners that they will not get a rates waiver on a premises or, in some instances, decide that they can get a waiver for a valid reason. I have given the example of State infrastructure that is being repurposed. That discretion has to be allowed.

As regards the Croí Cónaithe cities fund, which is a viability fund, it is clearly focused on inactivated planning permissions in the five major cities. I know the committee will be discussing this in more detail in future. It will bring in 5,000 apartments for owner-occupiers. The subvention will be passed on to the purchaser. It will interact with other affordability measures we have in place, such as help-to-buy grants and the first home shared equity scheme. Margin is, of course, included because one cannot develop anything without a margin. What we need to see is-----

**Deputy Cian O'Callaghan:** Is it a 15% margin?

**Deputy Darragh O'Brien:** If we are serious about compact urban growth, getting brown-field built again, tackling a viability issue, people being able to own apartments and families being able to live in cities, then we need to take radical measures. This will be targeted and timebound. It will be on an open call and open book basis. We are working through this with the Commission. We have opened for expressions of interest. It will be for owner-occupiers. As I stated, the subvention will be passed on to the purchaser by way of a saving and a reduction in what would have been the purchase price. I know-----

**Deputy Cian O'Callaghan:** The 15% profit margin will be-----

**Deputy Darragh O'Brien:** -----that we will get an opportunity to debate this. I want people to own their own homes and to be able to live in their cities. They need-----

**Deputy Cian O'Callaghan:** I ask the Minister to answer my question on the 15% profit margin.

**Deputy Darragh O'Brien:** -----to be helped to do that. This will be managed through the Housing Agency. Each expression of interest that comes through will be on an open book basis and assessed on its individual merits. That comes with lots of strings-----

**Senator Rebecca Moynihan:** I do not want to go over the ground that members have already covered but it is important to come back to the point made by Deputy McAuliffe in respect of essentially devolving this to local authorities. While the waivers of fee are welcome, it was a short-term and temporary measure, albeit one that identified a problem of which many people had been aware for a long time. I refer to the lack of flexibility in respect of having things like markets and open markets in Dublin. I worked with the Dublin Flea Market for a long time, trying to get a space for it. Eventually, the company had to be wound up. I have worked with groupings that were looking at having night markets along the same lines that are in places such as Thailand. Every stage of that process was interrupted by either bureaucracy or local authorities saying that they could not help because they did not have the powers to do it. I welcome these measures. I take on board all the points that have been made, for example, on the private annexing of public space and disability access.

I am very glad the Minister commented on how we need to tackle the car culture in our city and making it more liveable, walkable and bikeable. That is very important. However, there is a much wider issue in this regard of devolved powers to local governments to allow them to set their own by-laws when it comes to traffic management in certain areas in order to provide, say, for outdoor markets. This is a welcome step, but we need to go much further. Has the Minister plans for a review of this or to bring forward legislation that would devolve this power to local authorities?

**Deputy Darragh O'Brien:** I thank the Senator for her comments and her support for these additional measures. As I mentioned to Deputy McAuliffe earlier, the operation of licence arrangements, even prior to Covid, is a devolved power to local authorities. They decide whether to grant or refuse a licence, what type of licence they give and what is included in that licence. This means the scope of it, for example, how much street furniture is allowed. It is rightly with them. All local authority functions have a basis in primary legislation. The Planning and Development Act 2000 just sets out the process. The application of it and the granting of licences and all that is devolved to local authorities. I have said it here, I have heard it from a number of Senators and Deputies, and I have heard it particularly from Dublin City Council, DCC, to be fair, and Cork City Council, that where more licences than other local authorities have to be processed, sometimes additional resources are required, and we will provide them. I would positively look at any reasonable request that come in.

To be fair, we learned a lot over the past two years as to how, perhaps, where licences were not granted before, they were this time. I talk about New Street in my own town of Malahide. There have been talks about pedestrianisation or partial pedestrianisation and what we would do going back to 2004. It is the same in Dún Laoghaire and other places as well. We have seen that in South Anne Street too. It has been done, so people can actually see how it works now, which is a very good thing.



If there is a refinement required in the process at a local authority level, it is open to the local authority to do that. All we are doing is setting out the basis for granting the licences under the Act. The operation of it is with the local authorities. I assure the Senator that they have as much as devolved powers as they need in this space to be able to look after their own areas.

I fully support what she said. I want to make sure that our cities, towns and villages are more accessible, walkable and bikeable and that we reduce the dependency on cars and make every town, village and part of our city allow for the pedestrian, family and cyclist first. We should not allow for the car first. A situation that we have seen work very well through Covid is that people are now able to sit down and have a cup of coffee or tea on their main streets or paths and enjoy what is there, and spend more time in their towns and villages with their families and friends. That is what it should be about.

**Acting Chairman (Deputy Francis Noel Duffy):** I will just make one quick comment. Walking around Dublin and seeing streets widened and people out there is great. There are issues, but it just reminds me of the Continent where people are allowed to walk the streets with their children in a safer environment. It is just great. I think it is brilliant.

Does Deputy Matthews have a last comment or is he good?

**Deputy Steven Matthews:** The Minister has to be back, but I agree with his final comments on making our town centres people-centred and sharing that space in a manner that protects everybody.

### Messages to Dáil and Seanad

**Acting Chairman (Deputy Francis Noel Duffy):** In accordance with Standing Order 101, the following message will be sent to the Dáil:

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

That Dáil Éireann approves the following Regulations in draft:

Planning and Development (Street Furniture Fees) Regulations 2022,

a copy of which was laid in draft form before Dáil Éireann on 21st April, 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 measure:

That Seanad Éireann approves the following Regulations in draft:

Planning and Development (Street Furniture Fees) Regulations 2022,

a copy of which was laid in draft form before Seanad Éireann on 21st April, 2022.

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

12 MAY 2022

the Minister for his attendance.

The joint committee adjourned at 1.55 p.m. until 3 p.m. on Tuesday, 17 May 2022.