

DÁIL ÉIREANN

AN ROGHCHOISTE UM THITHÍOCHT, RIALTAS ÁITIÚIL AGUS OIDHREACTH

SELECT COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERI- TAGE

Dé Máirt, 1 Meitheamh 2021

Tuesday, 1 June 2021

Tháinig an Romhchoiste le chéile ag 12.30 p.m.

The Select Committee met at 12.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
Francis Noel Duffy,	
Joe Flaherty,	
Thomas Gould,	
Emer Higgins,	
Paul McAuliffe,	
Darragh O'Brien (Minister for Housing, Local Government and Heritage),	
Cian O'Callaghan,	
James O'Connor,+	
Eoin Ó Broin.	

+ In éagmais le haghaidh cuid den choiste / In the absence for part of the meeting of Deputy Joe Flaherty.

I láthair / In attendance: Deputies Richard Boyd Barrett and Duncan Smith.

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

Land Development Agency Bill 2021: Committee Stage (Resumed)

SECTION 2

Deputy Paul McAuliffe took the Chair.

Debate resumed on amendment No. 9:

In page 8, to delete lines 15 and 16 and substitute the following:

“(c) to ensure the delivery of vibrant and sustainable mixed income communities,”.

- (Deputy Eoin Ó Broin).

Vice Chairman: I remind members of the privilege advised to them at the previous meeting. We are resuming on amendment No. 9. I call the Minister for Housing, Local Government and Heritage, Deputy Darragh O’Brien, to respond.

Minister for Housing, Local Government and Heritage (Deputy Darragh O’Brien): We have had some discussion on this group of amendments. I have given a commitment to Deputy Boyd Barrett that I will take another look at the word “undue” and I will do that and revert to him, although it is a matter for the Deputy as to how he proposes to proceed with the amendment.

Amendments Nos. 9 and 38, are jointly tabled by Deputies Ó Broin and Gould and amendments Nos. 10, 11 and 85, are jointly tabled by Deputies Boyd Barrett, Gino Kenny, Paul Murphy, Bríd Smith and Barry. Amendment No. 9 seeks to delete an existing part of section 2 and to substitute it with “to ensure delivery of vibrant and sustainable mixed income communities”. That is what we want and what the agency will do. It is inherent in the Bill as drafted that fundamentally we want the Land Development Agency, LDA, to deliver sustainable communities for people, particularly in the areas of affordable and social housing. We have already had that discussion already, so I do not propose to rehash that argument.

As currently drafted section 2(c) provides that one of the purposes of the Act is to counteract undue segregation in housing between persons of different social background. Section 2(n) provides that the purpose of the Act is to facilitate measures designed to achieve socially integrated housing. It is important to say that rather than picking out one element of the purposes of the Act - I have given a commitment to take another look at the phrase “undue segregation” because I can see how that could be construed as what we do not want it to mean - members need to look at all of the purposes listed from section 2(a) to section 2(s). They should not be seeking to have one of them deleted or to highlight a particular line. They need to be read in context and together. Section 2(a) provides that the purposes of the Act is to enable urgent measures to be taken to increase supply of housing in the State and in particular affordable and social housing. I imagine everyone would agree with that. Section 2(b) reads “to ensure that public land which is not being utilised or is under-utilised, is made available for housing in the State.” That is just example of the purposes of the Act. All of the main purposes are listed in subsections (a) to (s). I am opposing this amendment as I believe what is sought is already adequately covered by the two provisions I referenced, that is, section 2(c) and 2(n).

Amendment No. 10 seeks to delete the word “undue” and amendment No. 11 seeks to replace the words “social background” with “incomes”. I get that argument and I have undertaken to take another look at amendment No. 10. However, I will be opposing it on Committee

Stage but I give a commitment to members that I will look at that piece again. These amendments do not change the intent of the provision, which is to ensure that this legislation seeks to provide and promote greater integration in housing across all of society. Again, we all want to do that. As I said, I will be opposing these amendments.

Amendments Nos. 37 and 38 seek to amend the section by removing any reference to socially integrated housing and replacing with either “make public housing available to people on a broad range of incomes” or “vibrant, sustainable and mixed income communities”. There is nothing wrong with that wording but we have to ensure that the wording in this Bill when enacted is consistent with other related Acts. I understand where the Deputies are coming from. My contention is that these areas are already adequately covered in the context of the purposes of the Act. Again, I am opposing these amendments as I do not consider they add anything to the provision, which is to provide that this legislation facilitates measures designed to achieve exactly what we all want, that is, socially integrated housing.

All of us recognise the importance of greater integration in housing. As Minister, I want to see the delivery of mixed tenure and affordable housing on State lands, as, I am sure, do all members of the committee. I said last week, when we met on a number of occasions, that the predominance of the sites, in particular in our urban areas, would be 100% social and affordable, which is an issue we will come to as to move to later sections in the Bill. It is vital that the State uses its land to provide affordable homes for purchase and rent, as well as social homes. We need to use all means at our disposal to do that.

I will come back on Report Stage in regard to the wording “undue segregation”. I take the point raised by Deputy Boyd Barrett.

Amendment No. 86 in the name of Deputy Cian O’Callaghan seeks to amend section 13(1) (g) by including a reference to communities. Section 2(d) in regard to the purposes of the Act refers to the development of communities. This is a sensible amendment. I am prepared to accept amendment No. 83 to add “and communities”, which will take into account Deputy O’Callaghan’s amendment. I will make that change further down in section 2(d).

Deputy Thomas Gould: The wording of legislation is very important. The people who live in social and affordable housing or private rented accommodation are not all necessarily from different areas. It is important that we do not stigmatise or label areas. I come from Knock-naheeny, which is a major social housing development on the north side of Cork city. I own my own home now. Some of the guys with whom I went to school became carpenters, accountants and so on. On the block where I lived, there was a real cross-section of society. Wording is key. I note the Minister said he is willing to take another look at some of the wording. When drafting legislation, it is important the wording is positive and constructive and that it does not label or stigmatise areas. I ask that the Minister be conscious of that.

I am proud of where I came from and grew up. I live in Gurrabraher now, which is another social housing development. I love my community and the people who live there. There is a great cross-section of society. It is important not to pigeonhole people and to say that if they come from a particular area they are in a particular section.

Deputy Cian O’Callaghan: I thank the Minister for his comments. Can he clarify if he is accepting amendment No. 86?

Deputy Darragh O’Brien: I can clarify that I propose to accept Deputy O’Callaghan’s

amendment No. 83 which is not in this grouping, but is a good amendment. That amendment refers to ensuring “the timely delivery of infrastructure in advance or in tandem with the delivery of housing”. I am suggesting we take amendment No. 83 and add in “and communities” after “the delivery of housing”. Basically we would insert it as section 13(1)(d). We would basically accept amendment No. 83 and add “and communities” to it. I think that does what the Deputy wants to do with amendment No. 86. I am sorry to cut across. Does that clarify the matter for the Deputy?

Deputy Cian O’Callaghan: My thanks to the Minister for clarifying that and for effectively accepting both amendments.

There is another point following from the discussion last week and from what Deputy Gould was saying about segregation. We are seeing some new developments under Part 5 designed in a segregated way. There is a relatively new development in the Minister’s constituency that I am aware of. The front doors of the Part 5 units go out onto a busy road while the doors of all the other homes in the development go out into a communal courtyard. That is in the Minister’s constituency.

Deputy Darragh O’Brien: Whereabouts?

Deputy Cian O’Callaghan: I do not wish to name the development.

Deputy Darragh O’Brien: The Deputy might let me know if he is referencing one as an example. It is important to back it up. That is all.

Deputy Cian O’Callaghan: I will. To be fair to the residents in the development I do not wish to name it, but I will tell the Minister. It is in the southern end of the constituency. That sort of design - which I gather is done by the developers - should not be acceptable and needs to be challenged.

Deputy Richard Boyd Barrett: My thanks to the Minister for acknowledging the point about undue segregation. There should be no segregation whatsoever. My point is not simply about the wording, although I acknowledge the Minister is willing to look at that. The issue is also that we have *de facto* segregation by virtue of the fact that the income thresholds for social housing have not increased for more than ten years. Bit by bit, the people who qualify for social housing are people on ever lower incomes. These are working people - the bus driver, the nurse, the bank clerk and so on - whose incomes used to qualify them for social housing but no longer do. They will continue to be moved into a different category unless we significantly increase the income thresholds.

I do not know how many times I raised this with Eoghan Murphy in the last Government. We were told of a mythical review of the income thresholds. Every few months we would be told it was coming but it never came. To me that was a deliberate policy to cull numbers on the social housing lists. People were literally thrown off the lists. Whenever a person got the slightest pay increase, he or she was thrown off the list. This was a source of great distress for people who had been on those lists often for ten or 15 years. All that time waiting was simply gone. They have been in limbo since then because there was no affordable scheme in reality and no cost rental scheme in reality.

My point is we are now saying that we need a different category for that group of people. We end up with *de facto* segregation. I believe that is why the drafters of the Bill referred to the word “undue”. They knew in fact there will be segregation in the way we are doing things.

We are going to have different categories of affordable or social housing delivered to different people based on certain thresholds. I believe we should be looking for ways to genuinely get rid of that segregation by saying that social housing and affordable housing should be available for everyone.

I wish to make one last point. We see this in reality and it is not unfair to call it housing apartheid. I know of developments in my area where the 10% social housing is all segregated into one block of a development. Even different finishings and different quality building materials are used for the social housing parts, which is disgraceful. In the same development a building that may look externally the same has different finishings internally and different features because it is social housing. It is as if they are doing it on the cheap. In most cases such dwellings are segregated from the private ones. It makes something of a lie of the notion of the somewhat patronising term “social mix”. If that is what we actually want, if we want a mix of people with different incomes and backgrounds, then it really should be a mix. It should not be segregated into one block.

Deputy Eoin Ó Broin: I think the Minister misunderstands or misinterprets the significance of the wording change. The problem is that the idea of mixed tenure automatically promoting integration has become something of a dogma, especially in political circles around housing. Many of us could take the Minister to mixed tenure housing estates where there is no integration. Where there are multi-unit developments there will be social housing tenants who are denied the right to participate in the owner management company annual general meetings. This creates clear divisions. There are different service delivery arrangements for refuse collection. As Deputy Boyd Barrett said, there are different finishes. There is a practice with apartment developments of putting all the social housing in one block because it is more cost effective for the approved housing body to manage one block rather than a different layout. It creates all manner of tensions.

All the evidence from all our housing policy experts, especially Michelle Norris, Tony Fahy and Mick Byrne in UCD, shows that mixed tenure is not the issue, but mixed income is. We can achieve mixed income either through mixed tenure or in a variety of other ways. For example, St. Michael’s Estate is an important housing development that Dublin City Council is leading on and the Department is supporting. That will not be a mixed tenure estate. It will have social and affordable renters, all of whom will be renters from Dublin City Council. The great value of that development is that it is mixed income. That is why I am proposing the amendment. I am not going to prolong the debate but I will be pressing amendments Nos. 9, 38 and 86.

Vice Chairman: Are you pressing amendment No. 9, Deputy?

Deputy Darragh O’Brien: Can I respond briefly, Chairman?

Vice Chairman: Yes of course.

Deputy Darragh O’Brien: I wish to make a couple of points. I have said to members that they should read the purposes of the Act section in its entirety because each of the points in it are related. In many instances what is being proposed by the speakers would perpetrate segregation by insisting on mono-tenure or purely public housing on public land. We cannot have it both ways. We need a mix of affordable purchase.

I agree completely on the design point. It should not be a question of a different design or

an apportionment of an area when we state that the area is designated for social or affordable housing. Deputy O’Callaghan’s party and Deputy Ó Broin’s party voted against a scheme in Donabate for 1,200 homes. All the homes are pepper-potted within it, and rightly so. There is no difference between any of the homes. Areas of the estates are not picked.

I fully understand the phrase “undue segregation” and where it is in legislative terms. It appears in other planning Acts as well. I have said I will look at that. I certainly do not want segregation in housing and I would not stand over it. That is what this legislation ensures. The aim is that State agency land is available to all people. That is what it does. It does not say that there has to be an estate purely for social housing. In itself, that would perpetrate segregation by having a whole estate set aside as a social housing estate. We should all want to move away from that.

I have explained already and I have no wish to keep going back and forth. I respect the fact that Deputies have gone to the trouble of tabling amendments. I will not be accepting them but I will come back on Report Stage with regard to the phrase mentioned, “undue segregation”. In fairness, there may be a misunderstanding of what we would actually do within this. It would be perpetrating segregation of one part of our community from another part of our community. We would simply be saying that State and public land can only be for a certain type of housing. That is not something I could agree with and I do not think that anyone should agree with it.

Vice Chairman: Are Deputies Ó Broin and Gould pressing amendment No. 9?

Deputy Eoin Ó Broin: We are indeed.

Amendment put.

The Committee divided: Tá;, 3; Níl, 5.	
Tá;	Níl;
Gould, Thomas.	Duffy, Francis Noel.
O’Callaghan, Cian.	Higgins, Emer.
Ó Broin, Eoin.	Matthews, Steven.
	McAuliffe, Paul.
	O’Brien, Darragh.

Amendment declared lost.

Amendments Nos. 10 and 11 not moved.

Vice Chairman: Amendment No. 12 is in the names of Deputies Ó Broin and Gould.

Deputy Richard Boyd Barrett: I thought everybody was not back from voting yet.

Vice Chairman: They had returned and the voting concluded so we moved on to amendments Nos. 10 and 11, for which the Deputy was not present. The clerk to the committee informed me that at that point the amendments fell so we moved to amendment No. 12.

Deputy Richard Boyd Barrett: Everybody is not back yet.

Vice Chairman: The amendments were taken with amendment No. 9.

Deputy Richard Boyd Barrett: Amendment No. 9 was being voted on and people are not back.

Vice Chairman: We did wait for the Deputy so there was a genuine attempt but I am happy to revisit the amendment if allowed to by the clerk.

Deputy Richard Boyd Barrett: In fairness, the only Deputy apart from me who is here is Deputy O’Callaghan. The rest of them are not back.

Deputy Steven Matthews: The full committee was present after the eight minutes bell to proceed with voting on amendment No. 9. When it came to amendments Nos. 10 and 11, the committee was also present in the committee room but there was nobody pressing it and we have moved on to amendment No. 12. I think that is the procedure and it is fair.

Vice Chairman: The clerk has advised me that we need to resume on amendment No. 12.

Deputy Richard Boyd Barrett: Okay. I will be pursuing it on Report Stage.

Vice Chairman: Amendments Nos. 12 and 87 are related and may be discussed together.

Deputy Thomas Gould: I move amendment No. 12:

In page 8, line 18, after “schools” to insert “, road, cycling and other active mobility infrastructure”.

There is a lack of cycle lanes, greenways and roads on the northside of city. I have posted a map of this on my Twitter page so people can see the difference between the southside and northside of the city. It means that people on the southside of the city, where there are cycle lanes and greenways, have an option of how they go to work. On the northside, because of a lack of this vital infrastructure, people are limited mainly to using cars, so then they are forced to pay an unfair carbon tax because there is not sustainable or equal development of cycle lanes, greenways and roads. This is a huge issue for my constituency of Cork North-Central. There is a lot of talk about the environment and how we are trying to reach the 2030 goals. If you live on the northside of Cork city or in Cork North-Central, there is not balanced development. What we want included here in the legislation are roads, cycle lanes and greenways because they are vital infrastructure.

Deputy Eoin Ó Broin: I await the Minister’s response.

Deputy Darragh O’Brien: Section 2(d) states “to enable the sustainable development of new and regenerated communities well-served by schools, public transport and public amenities”. You want to have a broad definition as opposed to just focusing on certain specifics like amendment No. 12 that seeks to insert a reference to “road, cycling and other active mobility infrastructure”. We hope to see that in all of them because it is good design. Amendment No. 87 seek to insert this reference into section 13(g). The inclusion of references to the development of communities well served by public transport and public amenities highlights the importance the Government places on the delivery of vibrant, well-connected communities. That is in the definition under the purposes of the Act. Road, cycling and other active mobility infrastructure fall under the broad categories of public transport and public amenities. Active public transport links will provide roads and wider transport-related infrastructure while public amenities will include cycling lanes and other related infrastructure.

The amendment strays into the planning piece for the specific developments. I understand

the intent of these amendments. I am not accepting them as I believe the sections, as currently drafted, cover the proposed provisions and further amendments are not necessary. I genuinely think the broad definitions we have given fully encompass road cycling and other active mobility infrastructures. If you were to get into defining all of them, what are you leaving out? That is why it is better to have the broad definition we have already in the Bill. Certainly there is no question we want well-connected and well-served communities with public transport, good amenities, cycling, walking and everything else. The amendments simply say, “road, cycling and other active mobility infrastructure”. I understand the intent but the amendments are too prescriptive.

Deputy Thomas Gould: The LDA has a site at St. Kevin’s in Cork which could have up to 240 units but which has no public transport, no cycleways, greenways or infrastructure. I made a submission on the site, and this goes to the whole heart of ensuring that when we build and develop communities, they are sustainable. I am concerned there will be a lack of infrastructure if the description is too broad. Deputy Ó Broin and I are trying to be constructive. We are saying we need this infrastructure to be put in place if we want to develop communities and make them sustainable. We are not being argumentative. We are trying to improve the Bill, if we can.

Deputy Eoin Ó Broin: I am genuinely surprised because this is a friendly amendment, and I thought, not unlike Deputy O’Callaghan’s amendment in the previous section, it was one the Minister could support. It is important to understand about the amendment that there is a sea change in transportation policy taking place. Unfortunately, like so many other areas, Irish governments have been slow to catch up on this.

Traditionally, transportation was the preserve of engineers, the people who built roads, whereas increasingly it is about active mobility. For me, the important bit of this amendment is the reference to active mobility because that is much more than the engineering of roads infrastructure, although we need an adequate supply of that. It also involves, exactly as the Minister said, mobility transport and planning experts to ensure the maximum possible number of options are available if we are to shift people’s modal use away from cars and towards other uses. From my reading of the Bill, it does not seem to mention active mobility anywhere, which is a real omission. My fear is that, if it is not included, it will not get done. It will become an option rather than a requirement. Given that the Minister has said he hopes to see the Land Development Agency incorporate these new active mobility and updated transport policies - and we would ultimately like to see all new housing developments do likewise - I can see no reason the Minister would not accept this amendment or why he would not insert such a provision elsewhere in the Bill if he feels there is a more important location for it.

Deputy Duncan Smith: To follow on from that point, in his reply, the Minister said that he felt the amendment is too prescriptive. Deputy Ó Broin mentioned that transport has really been the preserve of engineers. This could have been very prescriptive. The proposers of the amendment could have gone into gradients and all the rest. This is actually pretty standard. We need to acknowledge that, at least in the constituency I share with the Minister, an awful lot of the LDA land banks are on the fringes of towns, away from train stations, traditional town centres and schools that already exist. The promotion of active travel needs to be at the core of transport and housing policy rather than something outside it, falling into the very broad definition included in the original Bill. The Minister has said he is not going to accept the amendment but I really do not see the harm in doing so. It is a very reasonable amendment. I am a member of the Joint Committee on Transport and Communications, under whose remit active mobility falls. Two years ago, I hardly gave a second thought to scooters and they are now something

to which we all have to adapt. It is a mode of transport that is here and growing. We are going to need the infrastructure to support it. This amendment would have captured that issue without being too prescriptive. I will leave it there.

Deputy Darragh O'Brien: I fully get the intent of this friendly amendment, as Deputy Ó Broin has called it. I give consideration to all amendments that members have worked on and put forward. I do not have an objection to this *per se* but, to look at another element, if we were to adopt the amendment we would start to become prescriptive with regard to the travel element while not being prescriptive about the public amenities element under section 2(d). After “to enable the sustainable development of new and regenerated communities well-served by schools, public transport”, “road, cycling and other active mobility infrastructure” would be added in before “and public amenities”. This could raise questions. I am genuinely not trying to be difficult, but do we then need to start defining what these public amenities are? Deputy Duncan Smith just made a very valid point with regard to e-scooters. What other things would present themselves in a few years’ time when we are operating under this legislation? I would have thought it preferable to leave the provision broad so that it can encompass all of those elements as opposed to being too prescriptive.

I have sympathy for what the members are saying in the sense that we absolutely want to ensure that these new developments will have connectivity with the towns and cities in which they are located and that active mobility is provided for through good infrastructure for cycling, walking and other modes of transport. I am happy to look at whether section 2(d) could be broadened in some way to encompass that. I am genuine in asking, however, why we would not be prescriptive about public amenities if we are going to be prescriptive with regard to the type of transport or travel facilities? It would bring a bit of imbalance to section 2(d). I am happy to look at the issue on Report Stage. I take the amendment as being intended constructively. There is no question about that. We are not just opposing it for the sake of opposing it. The Deputy will have seen earlier that I am quite happy to accept amendments. Deputy Cian O’Callaghan has an amendment that makes sense. I can look at the issue again on Report Stage and see if we can improve the wording. I am happy to do that but I will leave it up to the Deputies to decide whether to press their amendment.

Deputy Thomas Gould: If the Minister is willing to look at our proposal and take it on board, I will withdraw the amendment and we can look at the issue again on Report Stage.

Deputy Darragh O'Brien: I appreciate that. I assure Deputy Gould that we will look at the matter. I will ask my officials to engage with him and Deputy Ó Broin to see if this section can be strengthened. I appreciate the amendment tabled. I believe we can work together to improve the section.

Amendment, by leave, withdrawn.

Deputy Eoin Ó Broin: I move amendment No. 13:

In page 8, line 19, to delete “to develop and regenerate” and substitute the following:

“to make available to Local Authorities, Approved Housing Bodies, Community Housing Trusts and other not for profit bodies”.

Amendment put and declared lost.

Vice Chairman: Amendments Nos. 14, 32, 50, 76 and 78 are related and may be discussed

together, by agreement.

Deputy Richard Boyd Barrett: I move amendment No. 14:

In page 8, line 19, after “public” to insert “and relevant private”.

All of these amendments are related in their logic. They propose that references to the Land Development Agency having powers in respect of public lands be extended to include private lands. I made many points earlier on about what a land development agency should be. It should not be a body that essentially opens the door and gives access to the public land bank to private capital. Rather, it should go in exactly the opposite direction. It should be a body that takes over the building land bank currently controlled by private speculators and developers in order to use it to deliver housing to meet housing needs, particularly the need for social and affordable housing. What I would like to see, and what these amendments aim to bring about, is an agency that essentially does what the Kenny report talked about. It should, in an aggressive way, take control of the bank of land for building that is currently largely privately held in order to deal with outrageous site costs and the hoarding of land and empty properties. This would be an agency which takes over land and property so that it cannot be hoarded or used for speculation and which would force that land and property into use with the social objective of delivering the housing that people need. The logic behind all of these various amendments is to include that emphasis on going in and taking control of the land bank that is currently privately held.

Deputy Darragh O’Brien: I will address amendments Nos. 14, 32, 50, 76 and 78 which have been jointly tabled by Deputy Boyd Barrett and his colleagues. Amendment No. 14 seeks to amend section 2(e) of the Bill, which provides for the development and regeneration of all relevant public land for housing, to include a reference to “relevant private” land. Amendment No. 32 seeks to amend section 2(k) of the Bill, which provides for the same thing, consolidation and provision, to include a reference to privately owned land. Amendment No. 50, as the Deputy has explained, also seeks to give the agency some control over the use of private land. I am not accepting these amendments as the purpose of the Bill is to establish the LDA and to make appropriate arrangements for the utilisation of relevant public lands for housing. We want to make sure that happens. As Deputy Boyd Barrett is aware, the State is the biggest hoarder of land and we need to make sure it uses its land productively for the good of citizens and society. The Bill is not legislating for privately owned land. There is already a vacant site levy in place, which I do have an issue with, by the way, and which is there to activate private and public lands. I am considering and will consider further measures, as appropriate, for private land activation. I intend to do that because I do not think the vacant site levy operates as it should. I do not believe it is otherwise appropriate to include such references in this legislation.

We need to get the agency up and running to develop the lands it has already, that is, the nine sites, and to get on with them. It will have the ability under compulsory purchase order, CPO, powers to acquire other lands, and ransom strips in particular. Section 2(p) of the Bill already provides for the establishment of appropriate mechanisms and structures for the development of public and privately owned lands for housing. This will generally operate by consent. I foresee that happening where the LDA will be partnering with others regarding adjacent private lands. I have included now appropriate CPO powers to acquire certain private lands where necessary, powers which it did not have in the first draft heads of Bill that we went through in the previous Oireachtas. I thank Deputy Boyd Barrett for tabling the amendment but I will not be accepting it.

Deputy Richard Boyd Barrett: I have made the point, so I will not labour it. It just shows

a fundamental difference in approach. There is a lot of unutilised public land but, in my opinion and that of many members of the committee, that land is underutilised because central government has refused to give local authorities the money, resources and so on to develop public land. Rather than seeing the problem being addressed by allowing private finance in on public land, the problem would be addressed by the Government giving the resources and money to local authorities to build public and affordable housing on public land.

I take the point about semi-State land and so on and that it is something the agency could usefully do but, again, I think it should be transferred to local authorities. The big gap and problem is that property developers and land speculators and so on control too much of the land bank. They manipulate the market and land prices and so on and they drip-feed housing according to what makes the most money for them. They are fundamentally not interested in solving the housing crisis and, for the most part, they actually benefit from the housing crisis and from keeping suitable building land as a scarce resource that they control. That is what needs to be addressed and what this agency should be doing, but it is obvious that is not what the Government wants to do because it is dancing very significantly to the tune of the speculators and big property developers. We know the arguments and it is a fundamental difference of opinion.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 15:

In page 8, line 19, after “of” where it secondly occurs to insert “public and affordable”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 16:

In page 8, line 21, after “long-term” to insert “social and affordable”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 17:

In page 8, line 21, after “to” where it thirdly occurs to insert “public and affordable”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 18:

In page 8, line 21, after “to” where it thirdly occurs to insert “social and affordable”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 19:

In page 8, line 23, to delete “to address deficiencies in the housing market and”.

Amendment put and declared lost.

Vice Chairman: If amendment No. 20 is agreed, then amendment No. 21 cannot be moved.

Deputy Richard Boyd Barrett: I move amendment No. 20:

In page 8, line 23, to delete “the housing market” and substitute “public and affordable

housing”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 21:

In page 8, line 23, to delete “market” and substitute “system”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 22:

In page 8, line 24, after “for” to insert “public and affordable”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 23:

In page 8, line 24, after “for” to insert “social and affordable”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 24:

In page 8, line 24, to delete “that market is experiencing” and substitute “there is”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 25:

In page 8, line 24, to delete “market” and substitute “system”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 26:

In page 8, line 25, after “systemic” to insert “public and affordable”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 27:

In page 8, line 26, after “for” to insert “public and affordable”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 28:

In page 8, line 26, after “for” to insert “social, affordable cost rental and affordable purchase”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 29:

In page 8, line 28, after “in” to insert “public and affordable”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 30:

In page 8, line 31, after “of” to insert “public and affordable”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 31:

In page 8, line 33, after “of” to insert “public and affordable”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 32:

In page 8, line 34, after “publicly” to insert “and privately”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 33:

In page 8, line 35, after “land” to insert the following:

“by Local Authorities, Approved Housing Bodies, Community Housing Trusts and other not for profit bodies”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 34:

In page 8, to delete lines 36 and 37.

Vice Chairman: If amendment No. 34 is agreed, amendment No. 35 cannot be moved.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 35:

In page 8, line 36, after “of” where it secondly occurs to insert “public and affordable”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 36:

In page 8, line 38, after “of” to insert “public and affordable”.

Vice Chairman: Is Deputy Boyd Barrett pressing the amendment?

Deputy Richard Boyd Barrett: Yes. I am on a losing streak but I will keep pressing.

Vice Chairman: The repetition is helping me so I am happy to keep going. Do not vary it.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 37:

In page 9, line 1, to delete “achieve socially integrated housing” and substitute “make public housing available to people on a broad range of incomes”.

Vice Chairman: If amendment No. 37 is agreed, amendment No. 38 cannot be moved.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 38:

In page 9, line 1, to delete “socially integrated housing” and substitute “vibrant, sustainable, mixed income communities”.

Amendment put and declared lost.

Deputy Cian O’Callaghan: I move amendment No. 39:

In page 9, to delete lines 4 to 7.

Vice Chairman: If amendment No. 39 is agreed to, amendment No. 40 cannot be moved. Amendments Nos. 39, 40, 88 to 90, inclusive, and 93 are related. Amendment No. 40 is a physical alternative to No. 39. Amendments Nos. 39, 40, 88 to 90, inclusive, and 93 may be discussed together.

Deputy Eoin Ó Broin: This group of amendments speaks to one of the most fundamental differences of opinion between all of the Opposition and the Government. It is about what the best delivery or development model is for housing on the lands that the LDA will be delivering. The problem with this set of sections of the Bill is that it promotes joint ventures, land initiatives, collaborations with investment vehicles and a variety of commercial contracts, with the consequence that it will dramatically increase the development costs, not just for any portion of houses on a development that are sold at unaffordable, open market prices, but even for the delivery of affordable homes. To take an example, Shanganagh Castle is a development that most of us broadly support the principle of because it is 100% public housing. The difficulty is that the Land Development Agency currently cannot say what the price of the affordable purchase homes will be, because the development and financing model that it will use, which is fundamentally different from the Ó Cualann model which most members of this committee actively support, means that the all-in development costs are higher. It could be as high as we saw at the O’Devaney Gardens site where so-called affordable homes accessing the serviced sites fund will be sold for as much as €310,000, plus a shared equity portion of another €50,000, so an all-in cost of €360,000. That is the consequence of developing through joint ventures and land initiatives, which the sections I am trying to amend here facilitate.

The Minister rightly mentioned the Donabate development. A problem with that initiative is that 60% of the homes will not be available to between 80% and 90% of the population, going by the income distribution figures of the Central Statistics Office, CSO, because according to Fingal County Council, they would sell at prices of between €350,000 and €450,000. Instead of providing housing for the 80% or 90% of the population currently locked out of the market, we will see, through a joint venture land initiative, 60% of the homes made available to only 15% or 20% of the population, people who already have new homes to purchase because that is all that the market is delivering at the moment. The Minister knows that I am not in favour of a centralised State agency. Other Opposition parties have argued for centralised State agencies, although different from the Land Development Agency. If one is to have one, it makes no sense to use a variety of private sector delivery models that push up prices either for so-called affordable housing or for unaffordable open market homes. Every single home on public land should be available to the largest number of people, 80% or 90% of the population. The Government has no business setting up an agency that will allow scarce public land to be used to

build homes that will be sold at prices of €400,000 or more. That is not just bad housing but is reckless in the extreme and is one of the reasons we have a housing crisis in the first place. That is why amendments Nos. 39, 88, 89, 90 and 93 seek to exclude those speculative private sector delivery mechanisms. That would clear the way for using delivery mechanisms that guarantee the maximum number of affordable homes at prices that working people can actually afford.

Deputy Cian O’Callaghan: I wish to move amendments Nos. 39 and 90, and Deputy Pringle asked me to move amendment No. 93 in his name.

Deputy Darragh O’Brien: To clarify, is the Deputy allowed to move an amendment on behalf of another member who is not present? That is for clarification for the future. Will the Vice Chairman clarify that?

Vice Chairman: We have not reached that amendment so what we will do is-----

Deputy Darragh O’Brien: I am raising this just on the basis that Deputy Cian O’Callaghan has sought to move the amendment. I am not trying to be difficult, I am just seeking clarification. That is all.

Deputy Cian O’Callaghan: The amendment is in this grouping. That is why I was-----

Deputy Richard Boyd Barrett: My understanding is that you are allowed to do that, Darragh - or Minister, should I say - and that-----

Deputy Darragh O’Brien: Okay, Richard.

Vice Chairman: To clarify, the topic may be discussed when speaking to this grouping, but amendment No. 93 will not be moved until we reach it so we can address it at that point.

Deputy Darragh O’Brien: That is helpful because if it is up for discussion, I can refer to it in my response. That is the only reason I wanted to-----

Vice Chairman: Absolutely.

Deputy Cian O’Callaghan: Should I address amendment No. 93 now or later on?

Vice Chairman: It is in this grouping, Deputy, so you may address it now.

Deputy Cian O’Callaghan: Regarding amendments Nos. 39 and 90, Deputy Ó Broin has put forward quite well the case as to how if public land is ceded to private developers, it increases its cost. The latter means that fewer people can access housing that is affordable for either rent or purchase and that obviously locks them out in terms of affordability. It also creates a housing supply issue because if we rely on the private delivery of housing and private developers, they will develop land - and this is not just in Ireland but anywhere - at a pace at which they can achieve the kinds of full market prices they are looking for. That means a drip feed of development over time. For example, one of the largest developers in the country, to which the lands in Donabate have been effectively sold, has enough land for 17,000 homes, according to the developer itself, and, according to that same developer, will build just 1,200 this year. Therefore, when it comes to land banks, yes, there is an issue with State lands, but there are also issues with private developers, how they hold land and how that fits the market prices they try to achieve. As for the Land Development Agency, it is very important that we try not only to break that method of delivery at full market price and the slow delivery that goes with it but also to ensure a faster delivery of affordable homes.

Amendment No. 93, which is in the name of Deputy Pringle but which he has asked me to move, relates specifically to investment funds and seeks that the Land Development Agency not be permitted to allow private investment funds purchase land, developments or housing from the agency. That is a very important amendment and I am happy to support it.

Deputy Richard Boyd Barrett: This is part of a series of amendments explained by Deputies Cian O’Callaghan and Ó Broin which seek to exclude what the Bill seeks to include, which is essentially to bring in private investors to develop the public land bank. This is a point I have made to the Minister before, and Deputy O’Callaghan has just made it too. I would love to hear the Minister’s response on this. To me, it is not even an ideological comment; it is just a basic statement of fact about a private business. The private developer has no interest, objectively speaking, in solving the housing crisis - none. That is not what it is in business for. That is what the Government is in business for. That is what the local authorities are in business for. That is what not-for-profit housing associations and co-operatives are for. Private investors have one sole purpose and that is to make money. They do not do anything that does not make them a profit. If it is not profitable for them to increase supply, on either public land or private land, they just will not do it. If you needed a lesson in this, you could not get a bigger one than the 2008 crash. At the point at which they cannot make money, private investors are quite capable of crashing an entire economy because they have no interest in building. The idea, therefore, that these people who are interested only in money would not only control the private land bank but also then have significant influence over whether public land gets developed for the public and affordable housing we need is, to my mind, tantamount to madness. I would honestly like to hear the Minister’s response. Does he not remember how the public private partnerships, PPPs, that had been set up with certain developers in this country collapsed because the private developers just decided, “This is no longer a good deal for me so I am just not doing it”. Plans to develop part of the north inner city just collapsed because the private developers had no interest. This Bill gives the public land bank over as a sort of hostage to private investors and private developers, who, let us be clear, and Deputy Cian O’Callaghan has alluded to this point, have no interest in the price of housing or rents dramatically decreasing. We do. Renters do. Ordinary workers looking to buy have a big interest in having rents or house prices they can afford. Private investors have no interest in that. The last thing they want is for rents or house prices to drop dramatically. It is madness.

Finally, as soon as these PPPs, for want of another term - that is what they are - come into play in one form or another, then accountability and all sorts of secret commercial sensitivity issues come into play such that it is impossible to get to the bottom even of how things are financed and so on. Rather than all that, we are trying to say that while these private interests borrow money, the State can borrow money too. It can tax in order to increase the revenue, but it is more effective and less hostage to market forces for the State to do this itself and, of course, in the long run it will save the State money because we will not be leasing property off these guys further down the line.

Deputy Darragh O’Brien: I thank Deputy Boyd Barrett and the other Deputies for tabling these amendments. To put all this in context, the Government is the biggest builder and the biggest investor in housing in the State. We passed the largest housing budget in the history of the State in budget 2021, bringing forward affordability measures that I hope Deputies opposite will support when the relevant Bill comes before the Dáil because those are real measures and this is the most comprehensive and significant affordable housing Bill ever.

We also believe in home ownership, however, and I will tell the Deputies one thing that ex-

cludes people. Deputy Ó Broin talked about excluding people just as Deputy Cian O’Callaghan talked about locking people out. The greatest mechanism for doing that is to object continually to schemes that have been brought forward by local authorities for real homes for real people that they need. We are in the middle of a housing crisis, as everyone knows, and I know everyone is earnest in trying to bring about its resolution. Fundamentally, however, we will not resolve a housing crisis with the public sector on its own. We will need the private sector. That is the reality of the matter. Fundamentally, the Land Development Agency is about putting our State lands to active use. As all members of the committee will be aware, there are far too many State lands lying idle which have been idle for years and have been subject to back-and-forth discussion and debate on ideological grounds. Our people want to see delivery. I reiterate that I envisage we will have 100% social and affordable housing on many of the sites in our urban areas. Will this require us partnering in some areas? Absolutely it will. There is no question about that. There are nine sites the Land Development Agency has at the moment and I want to see the agency develop them out. That is the importance of passing this Bill. There is no silver bullet to the housing crisis. I put it to the committee that if some members are arguing that it is possible to tackle the housing crisis with one arm tied one’s back then that is nonsense. It cannot be done. We need to tool up the State. I am very aware of that. That is why I have been to the fore in getting our local authorities building again. What the LDA will be doing will be in addition to what the local authorities are doing. The purpose of the LDA is to supplement the delivery of housing by local authorities, not to supplant them. I am opposing these amendments as these provisions are needed to ensure that all avenues can be used to ensure delivery of much-needed housing in the State.

We need to be delivering 33,000 homes per annum. We are way off that at the moment. The continued procrastination and blocking of measures that the Government is trying to bring forward will not help anyone. It certainly will not help working people to be able to own or rent a home at an affordable rate. We are trying to meet that need. These provisions are necessary and are wholly appropriate for the LDA. It is being established on a commercial basis and, in line with other commercial State bodies, will be able to enter into commercial arrangements. It needs to be able to do that. The main Opposition spokesperson has already said in previous hearings that the LDA should not be involved in building homes. It is also appropriate that the LDA in its role as a development agency would work with other public and private sector land holders, as it is with our local authorities, to develop large areas for the provision of housing and the regeneration of communities. These provisions are appropriate and I remind Deputies that the LDA will remain in the ownership of the State, with the Ministers for Housing, Local Government and Heritage and Public Expenditure and Reform as the shareholders. There is no provision for any other shareholders. In addition, all dividends will be returned for the benefit of the Exchequer. Ministerial consent will be required where the LDA seeks to establish subsidiaries or to enter into significant capital commitments. This will ensure that there will be a significant oversight of the LDA’s operations, including its commercial activities. There is also provision for ministerial direction to the LDA in relation to its strategic priorities.

On amendment No. 93 in the name of Deputy Pringle, I am opposing this amendment as I propose to bring in an amendment No. 134 to section 55, which will effectively do the same thing. This is about the disposal of land by the agency. Section 55 already provides that ministerial consent is required where the LDA or a subsidiary designated activity company, DAC, is seeking to dispose of land but that this consent is not required where it is disposing of a single house for rent or purchase. I am bringing an amendment to provide that the LDA will need to seek ministerial approval where more than one house is being sold as part of a linked transaction. In other words, it will not be able to dispose of more than one house to a single purchaser

without seeking ministerial consent. On the question of why ministerial consent would in some instances be required, there may be occasions where it would be appropriate for the LDA to sell multiple units to a local authority or an approved housing body. I will bring forward that amendment.

The planning legislation that I am bringing forward, in respect of which a circular has issued already, prohibits the sale of more than one property in new planning applications to a single purchaser. There are exceptions to that with which I believe all Deputies are in agreement, that is, approved housing bodies and local authorities for which it would be appropriate in some instances, but that would require ministerial approval under the LDA Bill. As I said, I will bring forward another amendment, amendment No. 134, to address what Deputy Pringle is getting at in amendment No. 93. For that reason, I will not be accepting his amendment. I also will not be accepting the amendments tabled by Deputies Ó Broin and Gould, Deputy Boyd Barrett and his colleagues and Deputy Cian O'Callaghan.

Vice Chairman: I call Deputy Ó Broin.

Deputy Eoin Ó Broin: I will be brief. The Minister is factually incorrect in claiming that the Government is the largest builder in the State. Last year, fewer than 800 new social houses were directly delivered by the local authorities and a couple of hundred houses were delivered by approved housing bodies. Almost all other housing was purchased from the private sector as turnkeys, public private partnerships or Part V provision. The main ask of many of us in the Opposition is not that we would have only public sector provision, but that the public sector would carry its fair share of the delivery, particularly of social and affordable homes.

It is also not the case that the State is the biggest investor. This year, the State will invest €1.4 billion of capital expenditure on social housing and a small number of affordable homes. That is a fraction of the total amount of money that will be invested by the private sector, including by the Housing Finance Agency, private banks and others, in the delivery of housing. Not only the Opposition, but the Economic and Social Research Institute, ESRI, is urging the Government to double direct capital investment in social and affordable housing. This is at the heart of these amendments because it is what this Bill is about. The reason almost everybody bar Government is calling for a dramatic increase in direct State investment for the delivery of genuinely affordable housing and more social housing is because the private sector, utilising vehicles such as joint ventures and initiatives, as referenced in these sections of the Bill we are seeking to amend, cannot do that. That is why the IMF, for which I am no great advocate, increased public expenditure when Fianna Fáil was last in government. The IMF is arguing that now is the time for Government to borrow at record low interest rates to invest. That is the right approach because if the Government does not do that it costs more.

I will return to the amendments and what they seek to achieve. Let us take Kilcarbery site in my constituency as an example, where the Minister and his Government colleagues had a very nice photo shoot recently. As I understand it, the Minister has approved funding for an approved housing body to deliver cost rental units on that site. The problem, however, is that that land was previously public land, but it was sold at full market value. Unlike Dublin City Council, Fingal County Council and South Dublin County Council got full market value for their lands. The Kilcarbery site was sold at full market value and a developer built properties on it. An approved housing body is now being funded by Government to buy that property, including the land that was originally sold. The consequence of that rather bizarre way of funding affordable rental is that the rents will be €1,200 per month, which is not that far off local rents in some parts of the suburbs. Many of us campaigned for years to have that site developed. If

Government had done what we are arguing for in our amendments to this Bill, that is, directly funded South Dublin County Council to deliver those homes, the rents in those units would be €800 to €850 per month. That was confirmed to us in committee hearings with the Department of Finance and Dublin City Council last year. In using joint ventures, land initiatives and commercial investment vehicles the Government is driving up development costs and, ultimately, affordable purchase and rental will be more expensive.

I would also like to correct the record. Nobody on this side of the Opposition is opposing any housing development. What we do not accept is scarce public land being gifted, as is happening in Dublin city and Fingal, through bargain basement prices and sweetheart deals. For example, 60% of the homes in Donabate will be sold for between €350,000 and €450,000 and the developers are being given ten years to roll out that site. That hardly shows the urgency or affordability that the Minister claims. The biggest objectors to actual housing in our city and county are Fianna Fáil and Fine Gael in terms of their objections to between 8,000 and 11,000 homes in the Clondalkin-Clonburriss SDZ and the delay of that project for a year through An Bord Pleanála. That was actual votes against actual homes as opposed to voting, as we do, against sweetheart land deals for developers.

I propose to press these amendments. If we are to deliver large volumes of genuinely affordable homes to rent or buy for working people, we have to get rid of those joint ventures, land initiatives and commercial investment vehicles and do what we know works, from Ó Cualann in Poppintree to Fingal County Council in Lusk, that is, direct delivery of good quality affordable homes for working people by not-for-profits, community co-operatives and our local authorities.

Deputy Cian O’Callaghan: On Deputy Pringle’s amendment No. 93, the Minister’s response was that there is a requirement for ministerial consent for homes to be sold on. While that is better than not having a ministerial safeguard, it is not a safeguard in terms of investment funds. It is the case that the Minister has been a strong backer of several projects of housing being built on public lands where the sites have been sold on to private developers and where we know the housing will end up in the hands of investment funds. The Minister has been a very strong backer of those projects. I would not have very much reassurance there. We need a strong legislative measure to prohibit the LDA selling public lands or homes built on public lands to investment funds. Without that, given everything that has happened to date and given the Minister’s very strong backing for projects where this is in effect what is in the pipeline, I would have serious concerns.

The Government is certainly not the biggest builder. It is a very large purchaser of housing. The Vice Chairman has made the point previously that given amount of money being allocated to purchasing housing through different schemes, the State is not driving down prices and improving affordability as it should be. That is a cost for the State but it is also a cost for wider society through increases in rents and the prices of homes. That is what is at the heart of our concerns on this. We have a model of selling public lands to large developers who already have large land banks in order that they can develop out housing schemes slowly over a ten-year period. When we have a housing crisis now and need fast delivery of affordable homes now and not over a ten-year period, that is not something the Minister should be trumpeting. I am concerned about the direction of the Land Development Agency under the provisions of this Bill.

Deputy Thomas Gould: I will be brief. I wish to reiterate the points made by Deputies Ó Broin, Boyd Barrett and Cian O’Callaghan. With the policy under this Government and the previous Government, which the Minister’s party supported, we have seen house prices

increase, rents increase and the housing crisis get worse for people trying to get affordable accommodation either to purchase or rent. These are the facts and there is no disputing that. In Cork North-Central house prices are increasing each year and so are rents. Bringing private developers in to develop public lands will only make matters worse. These amendments propose that public land should be used for public houses. These are scarce resources. This land is badly needed to deliver homes for people who need them.

Along with Deputy Ó Laoghaire, I attended a housing meeting last night in Cork at which Deputy Ó Broin spoke. One lady described how she has rented a house for herself, her husband and her four children. They were hoping to buy but they have been renting for 11 years. Because the rents are so high, they have paid the private landlord more than €100,000 and they are not one step closer to buying - in fact they are worse off now. They have been given notice to quit and have five months to find a home.

This is all as a direct result of Government policies introduced by the past few Governments and which the Minister will now enshrine in this legislation. For that lady, her husband and their children, and everyone else like them, we are asking the Minister to accept our amendments because we need to deliver public homes on public land. That is what we are here to do. Those are the fundamentals of where we are.

Deputy Darragh O'Brien: The lady Deputy Gould mentioned and many others whom I meet on a regular basis are stuck in a rental trap. That is why Government is introducing measures such as the Affordable Housing Bill, which I hope Deputies will support. We will bring forward a national cost rental scheme under primary legislation for the first time that will bring for the first time in over a decade direct build, affordable purchase homes. We are increasing the Part V provisions from 10% to 20% to encompass affordable housing. We will bring forward our shared equity scheme, which will enable people to get on the housing ladder at an affordable rate. I hope the Deputies will support those measures. Deputy Gould at his public meetings with Deputy Ó Broin needs to explain that they do not want the Land Development Agency to build any homes or plan to build any homes. That is the position they have set out. That is fine and they are entitled to that position. I do not have to agree with it, but I respect that position.

I have explained very clearly that I cannot and should not accept these amendments because we need to deliver homes for our people in places such as Donabate and St. Kevin's in Cork with which Deputy Gould is very familiar. When people look at all these sites across the country, they ask why they have not been developed yet. This Bill will help develop out some of the sites of strategic importance throughout the country to deliver homes for people.

We have had the recent example of some of the Opposition parties voting against 238 affordable homes, 238 social homes and 150 cost rental homes. They have opposed real developments that we could get on and build.

I reiterate that the Land Development Agency will be responsible for developing State-owned land in the main for the provision of social and affordable housing, cost rental housing and in some instances, in some areas of the country, private housing where that is required. We spoke earlier about segregation and members not wanting to have segregated developments or communities. Of course, we do not want that. We want to have integrated communities.

We fundamentally differ here. The Government wants a Land Development Agency that will deliver homes. Regardless of what is stated in these amendments, the Deputies have already made it clear from our hearings last week that they do not want a Land Development

Agency that will build any homes. That is fine. That is their position. I oppose the amendments.

Amendment put.

The Committee divided: Tá, 3; Níl, 6.	
Tá;	Níl;
Gould, Thomas.	Duffy, Francis Noel.
O'Callaghan, Cian.	Higgins, Emer.
Ó Broin, Eoin.	Matthews, Steven.
	McAuliffe, Paul.
	O'Brien, Darragh.
	O'Connor, James.

Amendment declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 40:

In page 9, lines 4 and 5, to delete “and collaborative structures between public and private bodies”.

Amendment put and declared lost.

Vice Chairman: If amendment No. 41 is agreed, then amendment No. 42 cannot be moved. Amendment No. 41 was already discussed with amendment No. 2.

Deputy Eoin Ó Broin: I move amendment No. 41:

In page 9, to delete lines 10 to 12.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 42:

In page 9, line 10, after “single” to insert “publicly owned and controlled”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 43:

In page 9, line 14, after “public” to insert “and relevant private”.

Amendment put and declared lost.

Vice Chairman: If amendment No. 44 is agreed, then amendment No. 45 cannot be moved.

Deputy Richard Boyd Barrett: I move amendment No. 44:

In page 9, to delete lines 15 to 17.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 45:

SHLGH

In page 9, line 15, after “activities” to insert “only in so far as is necessary for the provision of social, affordable and cost rental housing and”.

Amendment put and declared lost.

Deputy Eoin Ó Broin: I move amendment No. 46:

In page 9, to delete lines 18 to 20.

Amendment put and declared lost.

Question, “That section 2 stand part of the Bill,” put and declared carried.

SECTION 3

Vice Chairman: Amendments Nos. 47, 219 and 220 are related. Amendment No. 220 is a physical alternative to amendment No. 219. They are all to be discussed together.

Deputy Richard Boyd Barrett: I move amendment No. 47:

In page 9, between lines 24 and 25, to insert the following:

“ “affordable housing” means housing that is sold or let by a local authority/Approved Housing Bodies, and can only be sold back to the local authority;”.

We want affordable housing to stay affordable in perpetuity. In other words, we are in favour of affordably purchasable housing on public land as long as it always remains affordable and is never marketised. Therefore, we are including a provision which would mean that if affordable housing is sold on by somebody who was eligible to purchase it in the first instance, he or she would have to sell it back to the local authority and would not profit from it. In this way, the property would not become marketised or commodified. We fully agree with people’s aspiration and desire to have security regarding their home. Given the associated security, it is entirely legitimate that people would decide at some point to move from renting a home to owning their own home. The State should provide a stock of affordable housing but we do not believe that this housing should later become marketised. The amendment is a very simple measure stipulating that if an affordable property is sold on at any point, it should be sold back to the local authority. While reasonable inflation might be taken into account, nobody would make a profit from it. It would not be difficult to come up with a formula to achieve that.

Amendment No. 219 implies that we need to define “affordability” having regard to people’s income. We are saying the amount should be 25% of somebody’s income. That is a reasonable amount that people would have to expend on either affordable rental or affordable purchase. It should not be more than that. The Government and others may argue that the proportion should be increased to one third but people are in some cases spending 50%, 60% or 70% of their after-tax income on rent or a mortgage. Even with the affordability caps the Government is talking about, it is almost Orwellian to suggest one could still define as affordable a home whose worth is as much as €450,000, or €400,000 in other areas. It is quite bizarre. Setting that point aside, we want a reasonable proportion of people’s income to dictate the definition of “affordability” with regard to State-provided affordable housing. Those are the arguments in favour of our two amendments.

Deputy Cian O’Callaghan: Amendment No. 220 calls for a definition of affordability that is not based on a price just below the prevailing market price or rent but based on the income of

the purchaser or tenant. I fear, in respect of rents and prices just below the market value, that affordability would be defined based on small discounts on the full market price. Deputy Boyd Barrett is entirely correct in stating many people are spending 50% or 60% of their income on rent, putting great pressure on their ability to afford other basics and necessities. It is important, therefore, that our measure be worked into the legislation.

Deputy Eoin Ó Broin: I support all three amendments. I will speak to Deputy Boyd Barrett's amendments first.

A really important principle is at play here. One of the great weaknesses of the current affordable housing schemes, as they have been rolled out, obviously prior to the enactment of the affordable housing legislation and the introduction of this legislation, is that where homes are affordable - not all of them are, as we know from earlier discussions - they are affordable only to the first purchaser. While there is a clawback built into the equity share that the local authority retains to ensure a purchaser cannot make a windfall profit from land he or she did not effectively purchase in the first instance, an affordable property is no longer affordable once sold. Imagine if, instead of having such schemes, we strategically used public land to build up, over a decade, a stock of thousands of privately owned, permanently affordable, but tradeable, homes. Whether they would be sold back to the local authority, as is the preference of Deputy Boyd Barrett, or sold directly to the next purchaser in need of an affordable home is a separate issue. An almost secondary market would be built up. There would be social and cost-rental homes at one end and private and in many cases unaffordable homes at the other, but there would be thousands of permanently affordable homes that people could buy or sell. Who are these people? Currently, they comprise 80% to 85% of the working population based on the eligibility criteria that most of us believe are necessary. These could be altered. The measure would ensure that, in perpetuity, we would always have homes that the category of people in question could purchase. With respect to the proposition put forward by Deputy Cian O'Callaghan, this is really important, so-----

Vice Chairman: My apologies for interrupting the Deputy. We have reached the end of our slot and I propose that we suspend the select committee until 3.40 p.m. We will allow Deputy Ó Broin and Deputy Duncan Smith then to speak in advance of the Minister coming in.

Sitting suspended at 2.30 p.m. and resumed at 3.40 p.m.

Deputy Steven Matthews took the Chair.

Deputy Eoin Ó Broin: I will comment briefly on Deputy O'Callaghan's amendment. There is a key difference between how some people have been talking about cost rental in the public arena to date and what cost rental actually is. Cost rental is not a discounted market rent. It is not based on purchasing a market price home and setting a rent to repay that. It is based on a mixture of full cost recovery of the cost of delivering the unit, minus the developer's profit, with some relationship to ability to pay. It is crucial that, without necessarily opening up a complex differential rent model, the initial rent setting for all cost rental must have some regard to ability to pay. If you look at those cohorts of people above the threshold for social housing, for whom cost rental will be a key opportunity to have genuinely affordable accommodation, it cannot be above 30%. In fact, for some income cohorts, unless the social housing thresholds are raised, it would need to be between 27% and 29% of net disposable income if we use definitions similar to those advocated by the ESRI etc. These are fundamental amendments. Deputy Boyd Barrett's amendment addresses permanent affordability and Deputy O'Callaghan's addresses affordable rents. They should be at the centre of any initiative that the Government takes on

affordable housing, whether the Land Development Agency Bill or the Affordable Housing Bill.

Deputy Duncan Smith: The definitions of affordability are vitally important. The suite of housing Bills the Minister is bringing forward are intertwined, including the Land Development Agency Bill and the Affordable Housing Bill. This suite is a market discount Bill, as our housing spokesperson, Senator Moynihan, has said. Linking affordability to income is vital. It has been said in previous contributions. It is not only about the thresholds for social housing lists, which have not been raised in more than ten years and need to be raised. Deputy Gould said that bank clerks and people with regular jobs need to be included for social housing. People with regular jobs traditionally would have been able to afford a house. They are caught, unable to afford a house and outside the social housing net. Both those thresholds need to be looked at. It is all based on income and that is not being included adequately in the Affordable Housing Bill. It bleeds in to how practical this Bill will be in a real way.

Deputy Thomas Gould: I support the contributions by Deputy Ó Broin and other Deputies. Affordability is at the heart of where we need to be, not a market discount. A market discount means we are going by market prices, which are not a true reflection of affordability. Affordability should be based on income. Regarding what Deputy Boyd Barrett said earlier, numerous people have contacted me who have been on the housing waiting list for as long as eight years. I spoke to a lady last night who has been on the list with her husband for eight and a half years. They got a pay increase and now they have gone off the social housing list. How can it be right that a family waited eight and a half years and now they have gone off the social housing list? They do not qualify or have enough income to get a mortgage. They do not have the deposit for the mortgage and they are trapped in the middle. That is why affordable housing has to be based on income and not on the market value, which is the core of what we are saying.

As Deputy Smith said, when two people had a job in the past, they could get a mortgage. There is a situation now where even if two people are working full-time, they still cannot get a mortgage in many cases. That is why we have to make it affordable. We have to set the rates at between 25% and 30% of a person's income as a guide and not more than 30%, because some people are paying up to 50% or more. That is not sustainable and it is not a life for people to have.

Deputy Darragh O'Brien: I apologise to the Chair and members for the delay in getting back in. There were some technical issues on this side which have now been resolved. I hope it did not inconvenience people too much.

I have listened intently to members' contributions on this grouping. One area covered by it, as will be seen when it is discussed, and I know Sinn Féin will do so later on, is conditional affordable home ownership, where Deputy Boyd Barrett and his colleagues in amendment No. 47 will effectively tell you to whom you can sell a home you own and restrictions in that regard. I know Sinn Féin have published details in that space also. I will oppose that amendment.

We all know that there is a major affordability issue. We know that we want to address the issue as it applies to working people. People have mentioned bank clerks, nurses and gardaí. We want to make sure affordability measures we bring forward in our Affordable Housing Bill work. They will work. That is why I intend to amend Part 9, including section 76, on Report Stage to align the provisions more closely with the provisions in the recently published Affordable Housing Bill, which is before the Seanad, and indeed Part V of the Planning and Development Act. Members know I intend to bring forward a provision in it regarding affordability. We will table that on Report Stage. It is important this Bill is aligned with the Affordable Housing

Bill. We have both of these Bills before the Oireachtas and want to pass them by the summer recess, which shows the urgency the Government and I are addressing this with, to establish our affordable housing schemes which will be aligned with what we are doing here. I will not accept the amendments and will bring further amendments to Part 9 of the Bill on Report Stage.

Deputy Eoin Ó Broin: To correct the Minister, it is in the serviced sites scheme that when one buys an affordable home, one does not own 100% of the home. If the serviced sites fund grant is about €50,000, the local authority owns about 12% to 15%. That is the scheme and that is what is in front of us. If the property is sold at a later time, that charge has to be repaid to the local authority. It is the Government scheme where one does not have full home ownership.

The Minister is not dealing with the crucial point of Deputy Boyd Barrett's amendment here, which is, why not make these homes permanently affordable? Why not make sure every future buyer gets an affordable home? The problem is at some point we will run out of land. If we do not start building up a stock of privately owned, tradable and permanently affordable homes, at some point there will be a generation of bank clerks, retail workers or healthcare workers and there will be no affordable homes for them to purchase. That is why the whole proposition is to build up a good stock of such homes.

I am happy on another occasion to explain the detail of Sinn Féin's affordable housing plan because it is clear the Minister still has not read the document. If one buys a home under our plan, one owns it 100%. However, we want those homes to be permanently affordable, not the €350,000 to €450,000 homes that the Minister promises to deliver in large tracts of public land across the State.

Deputy Cian O'Callaghan: The issue I have with the Minister's response regards alignment with the Affordable Housing Bill. That Bill does not define "affordability" in terms of income and ability to pay. Instead, it re-envisages affordable housing as a percentage discount off a full market price for a home or rent. The fundamental issue is we have to have housing available that is affordable, not something that is called "affordable" and is a slight discount on the full market rate. That is the issue I seek to address.

Chairman: Does Deputy Boyd Barrett wish to press the amendment?

Deputy Richard Boyd Barrett: I had my hand up to speak.

Chairman: Deputy Boyd Barrett can go ahead and maybe then I will ask him if he wishes to press the amendment.

Deputy Richard Boyd Barrett: The Minister has not really explained his resistance to what I am trying to do in my amendment No. 47, which is to ensure that affordable housing funded through the LDA and through direct State investment would stay permanently affordable. Why on earth would the Minister not want to support that? I accept Deputy Ó Broin's addition. My amendment proposes that, if sold, it could only be sold back to the local authority. I accept we could amend that if the principle was established that it could be traded with other people, but as affordable housing. There would then be a stock of housing that remains permanently affordable. The Minister has not given an answer as to why he has a difficulty with that.

If he does not do that, then after the first generation of purchasers of affordable housing, the housing on public land will have been turned into unaffordable housing. As soon as market prices kick in after the first purchase, those houses will revert in my area to €450,00 or €500,000, having been built at the affordable level. There is no way to describe the consequence of not

accepting this amendment other than marketising public land. Ultimately, we are fuelling the conditions that have given rise to this crisis.

The Minister keeps making references to the Affordable Housing Bill but, as we will discuss in the following grouping, the Bill is littered with references to the market being taken into account and being the reference point for the setting of affordability, rather than being based on people's income.

Neither did the Minister come back on the point I made and Deputy Duncan Smith echoed. Why has the Government not raised the income threshold for more than a decade? Most of the responsibility for that lies with Fine Gael but the Minister is conspicuous in his refusal to answer that question. I think the secret answer that the Minister will not give is that, slowly but surely, the agenda driven by somebody - I am not sure who but I suspect elements in the permanent government - is to turn social housing into housing that will effectively only be available to people on social welfare. That is why we have not moved the thresholds upwards so, year on year, working people who used to be able to apply for social housing for no longer able to do so. Slowly but surely, working people are being excluded from eligibility for social housing. One has to be on the lowest of incomes, barely above social welfare rates currently, to qualify.

If the Minister wants to do something about avoiding segregation in housing, he should address that problem. The way to segregate housing is to make only people on the lowest incomes eligible. Here is a radical idea: why could anybody at all not be allowed to apply for social housing?

Chairman: Could we stick to the amendment? Does the Deputy wish to press the amendment?

Deputy Richard Boyd Barrett: I am speaking to the group and-----

Chairman: I am trying to keep us on target and on track. I appreciate the Deputy's cooperation so far but I ask that he finish up on this and state if he wishes to move the amendment.

Deputy Richard Boyd Barrett: I would appreciate if the Chair would extend the right to the tabler of the amendment that he did to others to speak twice.

Chairman: Yes.

Deputy Richard Boyd Barrett: The Minister did not answer the point put to him, which is why I am looking for an answer.

Chairman: Will the Minister briefly respond? Then I will ask the Deputy if he wishes to move the amendment.

Deputy Darragh O'Brien: I was waiting with bated breath to be able to come back in to answer. Deputy Boyd Barrett made another startling admission that he would open up social housing to everyone regardless of income. We have to live in the real world about delivering homes for people who badly need them. There are many people on the social housing list we need to address. The LDA in this legislation will help to supplement what local authorities will deliver. It will not be instead of but in addition to, as I have said before.

I addressed Deputy Boyd Barrett's amendment. He is putting forward conditions on home ownership, effectively. That is my view; he is entitled to his, and I respect it. He would be creating another level of social housing. I have been clear that I believe in home ownership and

in public housing. Home ownership is a just and honest aspiration for people to have. I do not support some of the conditionality some seek to put on home ownership.

I am well aware of how the serviced sites fund works. Deputy Ó Broin’s scheme is a different one. Of course, people have to pay. Should the State take an equity under the serviced sites fund, they will have to pay that back. The Deputy’s proposals would put a condition on the house in its totality as to what happens with it, who it goes to or who it is sold to. I do not believe those provisions are workable. In the area of affordability, I repeat that Parts 2 and 3 of the Affordable Housing Bill detail what the cost-rental provisions and affordable purchase provisions are. I will be aligning this Bill with the Affordable Housing Bill. It is important that is done. On Report Stage, I will bring forward amendments to Part 9. It is open to anyone to look at Parts 2 and 3 of the Affordable Housing Bill. As I have said before in the Dáil, I will be bringing in regulations alongside which set out the eligibility criteria. The reason for regulations is that they give more flexibility in the future to make changes, particularly when the scheme is new around eligibility. I want as many people as possible to be able to access affordable housing. That is what we all want.

Those are the reasons I am opposing amendments Nos. 47, 219 and 220.

Amendment put.

The Committee divided: Tá;, 3; Níl, 6.	
Tá;	Níl;
Gould, Thomas.	Duffy, Francis Noel.
O’Callaghan, Cian.	Flaherty, Joe.
Ó Broin, Eoin.	Higgins, Emer.
	Matthews, Steven.
	McAuliffe, Paul.
	O’Brien, Darragh.

Amendment declared lost.

Chairman: Amendments Nos. 48 and 221 to 225, inclusive, are related and will be discussed together.

Deputy Duncan Smith: I move amendment No. 48:

In page 9, between lines 32 and 33, to insert the following:

“ “cost rental dwellings” means dwellings, the rent for which is to be calculated so that it covers only the cost of building (not including the cost of site provision but including the cost of any loans), managing and maintaining the dwellings;”.

This amendment is another attempt to extract from this Bill any opportunity for profiteering as much as possible. It aims to define cost rental for dwellings by taking the value of the land out of the equation. The value of land is the fundamental issue as to why house prices are the way they are. It feeds into the cost of everything related to that.

That is where this amendment is coming from. We feel that if the Land Development Agency Bill is to work it will require amendments such as this. This amendment will ensure

that, when proposals are brought by the Land Development Agency, the public, local people and local councillors can be confident that they will not be faced with decisions that they have to trade off when it comes to profiteering. We feel that this is a way of doing that. Will the Minister strongly consider this amendment?

Chairman: I appreciate the Deputy going straight to the point and being brief on it.

Deputy Richard Boyd Barrett: I consider this one of the most important amendments we have put forward. For anybody who can go through the tedium of watching 225 amendments, or whatever the number is, being dealt with by an Oireachtas committee, I recommend they look at page 48 of the Bill as initiated. Under section 76, Price under agreement, the Bill sets out two provisions that show the fundamental flaws in the Government's approach in trying to address the housing crisis through the use of the public land bank. It links the price it will charge for either affordable purchase housing or for rental property that will be built on public lands to the local market specifically.

Section 76(2) states: "the Minister may prescribe the price, or a method of calculating the price...and may prescribe different prices and different methods in respect of agreements relating to different geographical or administrative areas". Section 76(3) states:

For the purposes of prescribing a price or a method of calculating the price in relation to an area...the Minister shall have regard to the likely future demand for cost rental dwellings and dwellings for sale in the State...

(a) the prevailing market price and market rent;

Why would one have that in the Bill? If the Bill's purpose is to provide housing to people who are currently priced out of the market, either the affordable purchase market or the rental market, why on earth would one link the price that the Minister could set to local market conditions? It totally defeats the purpose. It guarantees that, in the areas which are at the epicentre of the housing crisis, the very reasons for the crisis will be woven into the structure of the Land Development Agency instead of undermining the dysfunctionality of the market. It is not setting prices according to the actual affordability criteria for those income groups, now the majority of working people, who are excluded by market prices or market rents.

Why are these sections in the Bill? They are there because the private developers and so on who have lobbied the Government around all these matters would be horrified at the idea that, in an area where they are selling property from €450,000 to €550,000, or renting property out at between €2,500 or €3,000 a month, the State might, on any sort of substantial scale, build properties that cost €200,000 or could be rented for €800 or €1,000. These measures have been inserted essentially in order to protect the property developers.

There is no rationale behind these measures. If the Land Development Agency was actually to develop public and affordable housing on public land, one would have no references to the market or different prices being set dependent on the area in which they were located. If the Minister can prove I am wrong on this, I would be happy to listen to his argument, but I doubt he can do so.

Deputy Cian O'Callaghan: I am speaking to my amendment No. 224. I agree with Deputy Boyd Barrett. I will be supporting his amendment and I hope it passes. These references should be taken out. If his amendment does not pass, the one I am proposing should be considered. It says that, in terms of setting a price, the Minister shall have regard to income, ability

to pay and affordability. It is quite incredible that income, ability to pay and affordability are not among the criteria set down for the Minister to have regard to when setting a price. At an absolute minimum, the Minister should accept my amendment. However, Deputy Boyd Barrett's amendment is a good one and I will be supporting it.

Deputy Emer Higgins: I speak to my motion in that same grouping. I am looking for the affordable land value mechanism to be enshrined in the legislation. We all need to have confidence that affordable homes built on public land will be made as affordable as possible. That means having an affordable land value so that the prices reflect the fact these houses are on land which is effectively discounted because it is zoned such that it, or a certain percentage of it, can be used only for social or affordable housing from an affordability perspective. That is important. Otherwise, we are not being clear to the public, not necessarily from a legislative perspective but from a communications perspective, to make sure people understand there is an affordable land value which is taken into account and which is how homes will end up being affordable at the end of this.

Deputy Paul McAuliffe: I speak to amendments Nos. 222 and 223. I am repeating the point Deputy Higgins has made. There have been many characterisations of this legislation. In essence, it is a mechanism to take the commercial value and apply a charge to the land, which will mean it will deliver both social and affordable housing. Doing so reduces the value of the land cost, so when housing is built, the land value has been eliminated from it. While there have been many characterisations of what this Bill does, that is the reality of what it does.

Like Deputy Higgins, I am hoping to reflect that term "affordable land value". I have no problem with the commercial value being named, because we should name the starting point of that process of devaluation, but I would like to see the affordable land value reflected in there as well.

Deputy Darragh O'Brien: I thank the Deputies for their amendments and for contributing. To row it back a little bit, people will recall this Bill was published before the Affordable Housing Bill. That is why I intend to bring forward amendments on Report Stage, especially to Part 9, including section 76, which will align the Land Development Agency, the affordability piece and the definitions with the Affordable Housing Bill. It is important that is done to provide the additional clarity around this. We will do so by way of amendments.

Deputy Higgins and Deputy McAuliffe are correct. You will have a heavily discounted land value based on the affordable land value and the proportion of a site which is designated affordable or cost rental. I agree with Deputies that there is more work to be done in this space. When this Bill was published, we did not have the full definitions of how our Affordable Housing Bill would work. That Bill is currently in the Seanad. The job we need to do on Report Stage is to marry the two and that is what we will do.

Section 76 and Part 9 will be fully aligned with the cost rental, which is under Part 3 of the Affordable Housing Bill, and with the affordable purchase. That will become clearer for Deputies as we get to Report Stage. I cannot accept the amendments before us at this stage, but we will be working through this on Report Stage and aligning it with our Affordable Housing Bill. There is nothing sinister in this. It is to make sure both Bills are complementary.

Deputy Richard Boyd Barrett: There seems to be something of an admission on the part of the Minister the section my amendment is trying to delete needs to be deleted. That is a good start. However, he cannot tell us what it will be replaced with, only that it will be broadly

aligned with the Affordable Housing Bill. I would like the Minister to tell us as much as he can about that because it is not satisfactory we are now on Committee Stage of this Bill and we do not know what the Government will do on Report Stage. We have not seen the Report Stage amendments the Government will make on this critical point of whether the LDA is capable of delivering affordable housing on public land.

The Government appears to be acknowledging the point of my amendment, which is to say there should not be any relationship between how you price affordability and local market conditions. Is the Minister accepting this is correct, that local market conditions should not be criteria for setting the price of affordable housing or affordable rental? That would be an important step forward by the Government. I am happy to admit when the Government puts its hands up and says it was wrong and will change things. Is the Minister saying we are right that the benchmark against prices and rents at the local market level is not an acceptable way of defining affordability? If that is in any way a criterion, I put it to the Minister that he essentially will have undermined the attempt to deal with the housing crisis and the affordability crisis in the areas where these crises are most acute and where the response is most badly needed.

Deputy Eoin Ó Broin: I support Deputy Smith's amendment. I will not repeat the points other than to say we have to have a definition of affordability, particularly affordable rental, which is linked to people's income and ability to pay. I will support any amendment which attempts to do that. I also support Deputy Higgins' amendment in principle because there has been confusion in the public arena around much of the debate on land values.

There should be no reference to market value anywhere in this legislation, because market value is the open market value of land when it is sold on the open market and is determined by the zoning of that land. The vast majority of land we are talking about has an existing use value. The existing use value should be the guide.

The problem is, when you change the use of the land, the valuation changes. Shanganagh Castle is an illustrative example. That land had an existing use value of approximately €9 million. That is how much Dún Laoghaire-Rathdown County Council paid the Department of Justice for the purchase of that land. Its existing use was the value of that land, which sat on the balance sheet of the Dún Laoghaire-Rathdown County Council. When one decides to develop that land with a mixture of social, affordable rental and affordable sale the land values change. Social continues to have existing use value and that does not change. The market value if one uses the terminology in the Minister's Bill of the cost rental is now determined by the lifetime yields that can be gained from ownership of those cost-rental units and that is a separate valuation. Likewise, the market value of the land on which the affordable purchase is not determined by the purchase price of the home today but the imputed future value of the sale price of the home, including the market value of the land because, of course, under the Minister's scheme one can sell those properties into the private market at a future point in time. The idea that what is proposed in this Bill will give one a zero or existing use value for any lands, from public bodies transferred to the LDA, is simply not the case.

The Dundrum central sites are also very important. Let us imagine a portion of the Dundrum central sites is unaffordable open market price. We do not know what the designation will be but let us give the Minister the benefit of the doubt and let us say he restricts it right down to 10% or 20%. In the market value of that land would be three separate calculations: the proportion of land that is social, which is the existing use value; the portion that is affordable rental for sale, the imputed yields or future value of the sale of the property; and then there is the open market value, which would be the full market price. That is the way this is going to be

calculated. The suggestion that I have heard from some Government backbenchers, not on this committee but in my conversations with them, that they have been told not to worry and that the provision is just a way of getting around EU state aid rules and to avoid a legal challenge from some private developer who wants to buy one of these pieces of land but fears that the LDA is getting illegal state aid is, I think, a risky road to go down. We should only be talking about existing use value or the book value of the land, whichever is the lowest because no one should profit from land that is currently unused and sitting with the HSE, the Office of Public Works or Irish Rail and transferred to any public entity whose job is to deliver social and affordable homes. I say that because any increase in the value of the land, and it is transferable, increases development costs and the prices of those homes to rent or buy.

I would not have drafted the amendment as Deputy Higgins has done but her point is an important one. We need to make sure that if land is to be transferred then it must be done at the lowest possible price and that is the existing use value or the book value of the land, whichever is lower.

Deputy Darragh O'Brien: I thank the Deputies for their comments and amendments.

Let us remember that this legislation is about setting up a land development agency and it is not the Affordable Housing Bill. We are going to align the parts that relate to definitions so cost rental and affordable purchase will be aligned exactly with the Affordable Housing Bill that is in the Seanad at the moment.

Let us consider cost rental for argument's sake. Part 3 of the Affordable Housing Bill, which is where it should be because the main piece of legislation is the Affordable Housing Bill in terms of the provision of affordable homes be they for rent or purchase. That Bill sets out in great detail the details of the estimated total cost that was referred to and the definitions for cost rental itself.

The criteria around eligibility will be published by way of regulation. I expect that members will agree that that makes absolute sense because should levels change within eligibility then one needs that flexibility to be able to change them but they will be published alongside it too.

There is no admission of any issues here whatsoever. It is very simply that the Land Development Agency Bill was published in advance of the Affordable Housing Bill. Both Bills are now moving through the Houses. We want to align one with the other and that is exactly what we are going to do by way of the Affordable Housing Bill itself. We will also make sure that the LDA uses the definitions of the Affordable Housing Bill for both affordable purchase and affordable rental.

To get to the point made about affordable value and a discounted land value, it will be the case that they will be heavily discounted on the market value based on the proportion of affordable and social homes on the State agency's site. That is a fact and is what will happen. That is the whole purpose of being able to drive affordability and use our lands to deliver social homes. This will help in the provision of those affordable purchase units, in particular.

Some of these amendments may be more appropriate to the Affordable Housing Bill. They are certainly not appropriate to this Bill. I will bring forward further amendments to Part 9 of this Bill, including section 76, which we have talked about here, on Report Stage so that there is that exact alignment between both pieces of legislation.

Deputy Duncan Smith: I will press my amendment. I wish to advise that I will not call a vote on any of my amendments that are in my name only because I cannot vote on them myself.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 49:

In page 10, between lines 12 and 13, to insert the following:

“ “public housing” means housing that is owned and operated by Local Authorities and/or Approved Housing Bodies; and is let in line with the differential rent scheme and each local authority’s Allocation Scheme;”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 50:

In page 10, between lines 14 and 15, to insert the following:

“ “relevant private land” means land that is owned privately but has lain unused for more than three years, or has building(s) that are unused for more than three years on it;”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: We nearly had one.

Deputy Darragh O’Brien: No, the Deputy did not.

Question, “That section 3 stand part of the Bill”, put and declared carried.

SECTION 4

Deputy Duncan Smith: I move amendment No. 51:

In page 10, between lines 29 and 30, to insert the following:

“(3) Notwithstanding *subsection (1)*, the following shall not be relevant public land for the purposes of this Act:

(a) any land that is being managed, maintained or developed as a nature reserve or a national park by the National Parks and Wildlife Service of the Department of Housing, Heritage and Local Government;

(b) any land that is being managed, maintained or developed as a heritage site by the Commissioners of Public Works in Ireland; and

(c) the Phoenix Park, Dublin.”.

There has already been a great deal of heated debate on my amendment, albeit through the medium of social media, between the Minister, Deputy McAuliffe, me and the Labour Party’s spokesperson in the Seanad, Senator Rebecca Moynihan. The intent of my amendment is to highlight the potential hazards of the LDA Bill as it is written. I refer to the potential for its impact on public lands under the definition of “relevant public land”.

My amendment seeks to insert into the Bill and highlight, in terms of the setting up of the

LDA, that lands belonging to the National Parks and Wildlife Service, nature reserves, heritage sites and, indeed, the Phoenix Park, which is one of the most well known sites, protections that are required to ensure that the LDA does not mutate in ways that are unforeseen by anyone. I accept the Minister's bona fides on this. He does not expect the LDA to go this way but I believe that we should back that up and put it in the Bill.

Deputy Eoin Ó Broin: My clear understanding of the Bill is that these lands are not covered and the LDA does not seek to require them but I fully understand the Deputy's intentions.

Perhaps the Minister could address the following. One of the things that has caused confusion across many areas is that the LDA has a geomapping facility on its website that identifies land but the way in which this is presented gives the impression that lands which have a certain colour coding may be lands of interest to the LDA. As the Minister will know, because he knows the map as well as I do, lots of those lands are not even zoned for residential use. They are greenfield sites or green sites inside other sites. It is not that I think the LDA has its sights on these lands, but I would like a clarification on the matter in the context of the Minister's response to Deputy Duncan Smith's question. The LDA's website, including that mapping function, needs to be changed in order that only lands that are clearly zoned for residential use would even appear on it. That would clear up a lot of the confusion. I say this just by way of being helpful.

Deputy Darragh O'Brien: I thank Deputies Duncan Smith and Eoin Ó Broin for their comments. I think everyone knows there is no intention that any lands such as the Phoenix Park would be used by the LDA, nor will that ever happen. The Bill deals with relevant public lands, which are lands in the ownership of public bodies in population areas of more than 10,000. Section 3 of the Phoenix Park Act 1925 confirms that the park is for the general purpose of recreation and enjoyment by the public. The majority of parks and heritage sites will be outside the scope of the definition in this amendment. Where such sites are in more urban areas, however, they are included on the register of relevant public lands. That is all. I take Deputy Ó Broin's point about the website, but that is a prototype. It may have led to some confusion, which we have flagged. Senator Moynihan raised this a number of weeks ago. There is absolutely no question that any of our public parks, including the Phoenix Park, would be taken over by the LDA. Let us look at all the checks and balances in the Bill. It is important to note that the inclusion of land as a relevant public land on the register does not mean it is to be used for housing.

As for the aim of the register, and going back to our disagreements at the start as to whether or not the LDA should build homes, everyone has said the agency should have a register of public land. One would have thought we should have had that quite some time ago.

I am not in a position to accept the amendment. Too much focus has been given to this alleged issue over recent weeks. I genuinely think most people understood completely that this is something that would never happen. The register of public lands is important. I do, however, take the point about the website. That is being worked on. However, I am not in a position to accept the amendment.

Chairman: Is the amendment being pressed?

Deputy Duncan Smith: No.

Amendment, by leave, withdrawn.

Question, "That section 4 stand part of the Bill", put and declared carried.

SECTION 5

Chairman: Amendments Nos. 52 to 54, inclusive, are related and will be discussed together.

Deputy Eoin Ó Broin: I move amendment No. 52:

In page 10, line 31, after “may” to insert “, following consultation with the relevant Oireachtas Committee.”.

The Minister will remember that when he was on the Opposition benches with the rest of us he used to fight this good fight regularly when the previous Ministers brought forward legislation. The key issue is that there are many sections of this Bill which give the Minister significant powers to introduce regulations governing the operation of the LDA, land transfers and acquisitions and other matters. As the Minister well knows, when, for example, there is a proposed change to planning regulations, there is a very straightforward procedure whereby the Minister consults the relevant Oireachtas committee and then a motion is laid before the Dáil to approve or not approve said regulations. I fully understand that regulations are primarily a function of the Minister and the Government, but the Minister was before the committee recently to consult on changes to planning regulations in the context of Covid-19, which he discussed and which we strongly welcomed, and that level of transparency and accountability is very important. These four amendments are in the spirit of greater accountability, transparency and respect for the functions of the Oireachtas. I hope the Minister will be able to support them or to give an undertaking that he will examine them to see if it is possible to bring forward amendments of his own on Report Stage.

Chairman: To clarify, we are on amendments Nos. 52, 53 and 54, so it is three amendments we are discussing.

Deputy Eoin Ó Broin: I am discussing just the first three. I would prefer to speak to amendment No. 54 separately if the Chairman does not mind.

Chairman: Okay. Does the Minister wish to respond on amendments Nos. 52 and 53?

Deputy Darragh O’Brien: Yes.

Chairman: Deputy Ó Broin, we are discussing amendments Nos. 52, 53 and 54 together. Could you speak to amendment No. 54?

Deputy Eoin Ó Broin: I apologise. It is amendment No. 55 that I wish to discuss separately.

Deputy Darragh O’Brien: Does the Chairman want to explain this?

Chairman: We will discuss amendments Nos. 52 and 53.

Deputy Darragh O’Brien: I will deal with these three amendments together. In the previous Oireachtas, we went through very detailed pre-legislative scrutiny on the general scheme of the previous LDA Bill. We have made sure in this Bill that there is full oversight on the part of the Comptroller and Auditor General as well as oversight from and a report to the Joint Committee on Housing, Local Government and Heritage and FOI provisions, and rightly so. This is significant change, the latter provisions in particular, from the first iteration of the Bill. I imagine that any Minister will consult committees, but what Deputy Ó Broin is seeking here is that every time a Minister made a regulation that relates to the LDA or a direction to the LDA, he or she would have to consult the Oireachtas committee on every single one of them. It is a stan-

standard provision that a Minister may make regulations or issue directions as and when required without prior consultation with the committee. Regulations and ministerial directions will be made in accordance with the Bill and will be enacted following the approval of the Oireachtas. However, it is normal practice as part of the governance of State agencies - I am not just talking about the LDA - that a Minister may issue a direction to an agency.

I know where Deputy Ó Broin is coming from, but to propose that an agency and, in addition, in this specific instance, any future Minister would have to consult before giving a direction or issuing a regulation for the agency would, I think, result in a very heavy burden being placed on the Minister in making decisions relating to the agency and would slow down the process. Having said that, these directions generally relate to the implementation of government policy, as Deputy Ó Broin will know, and the LDA will absolutely be required to comply with any direction issued to it under this section. As I said, the LDA and the Minister will work with the Oireachtas committee in the normal course of events, but having to consult the Oireachtas committee before issuing any direction or regulation is not something that is done with other State agencies, so I cannot accept the amendments.

Chairman: Does Deputy Ó Broin wish to discuss amendment No. 54 now?

Deputy Eoin Ó Broin: Yes. I apologise. I was confusing two groups of amendments.

This is a good example of the Minister going native. It is always very unfortunate when Deputies in opposition argue for the maximum level of Oireachtas oversight and committee participation and then quickly forget those arguments when they go to the Custom House. Given the significance of this agency and the size of the land banks the Government claims it will have transferred to the agency and the enormous role the latter will have when given development authority status, as well as being able to develop strategic development master plans and directly develop, then we must have the maximum level of scrutiny. If we had this level of scrutiny over the National Asset Management Agency, which was the last time a Government created an agency of this size, we may not have had some of the problems or scandals that Government Members rightly highlighted and were concerned about when they were in opposition. If the Minister were willing to work on this and come back with some better scheme to ensure regulations of a certain significance or land transfers or project developments of a certain size could be covered by Oireachtas scrutiny, I would be happy to withdraw these amendments.

Deputy Darragh O'Brien: I have nothing further to say. I have been very clear. Why would this agency be treated differently from any other? We have taken on board many of the concerns raised during pre-legislative scrutiny in the previous Oireachtas. It should not be forgotten that annual reports and regulations will be laid before the Oireachtas. The Minister has recourse to the Oireachtas committees. There is also the Comptroller and Auditor General and the freedom of information legislation. These provisions would only add a further burden of decision-making for an agency which we must ensure gets up and running to deliver homes for our people. I cannot accept the amendments.

Chairman: Does Deputy Ó Broin wish to press the amendment?

Deputy Eoin Ó Broin: Given that democracy is never a burden, I am more than happy to press this amendment.

Deputy Darragh O'Brien: The late convert.

Amendment put.

The Committee divided: Tá;, 3; Níl, 6.	
Tá;	Níl;
Gould, Thomas.	Duffy, Francis Noel.
O'Callaghan, Cian.	Flaherty, Joe.
Ó Broin, Eoin.	Higgins, Emer.
	Matthews, Steven.
	McAuliffe, Paul.
	O'Brien, Darragh.

Amendment declared lost.

Deputy Eoin Ó Broin: I move amendment No. 53:

In page 11, line 1, after “may” to insert “, following consultation with the relevant Oireachtas Committee,”.

Amendment put and declared lost.

Question, “That section 5 stand part of the Bill”, put and declared carried.

Question, “That section 6 stand part of the Bill”, put and declared carried.

SECTION 7

Deputy Eoin Ó Broin: I move amendment No. 54:

In page 11, line 16, after “may,” to insert “following consultation with the relevant Oireachtas Committee and”.

Amendment put and declared lost.

Chairman: Amendments Nos. 55, 56, 125 to 131, inclusive, 134, 184, 194 and 228 to 230, inclusive, are related and will be discussed together.

Deputy Darragh O'Brien: I move amendment No. 55:

In page 11, line 17, after “Agency” to insert “or a subsidiary DAC”.

Amendments Nos. 55, 56 and 125 to 131, inclusive, are technical in nature. They are a response to concerns raised on Second Stage about subsidiary designated activity companies, DACs.

The amendments provide for the inclusion of “or a subsidiary DAC” in a number of sections. I am introducing the amendments to provide clarity and absolute certainty and to remove any lingering doubt whatsoever that the provisions of the Bill that apply to the LDA will also apply to any of its subsidiary DACs. That was raised on the Second Stage debate. It was always the intention of this legislation when it was being drafted that references to the LDA would also refer to a subsidiary DAC, but for the avoidance of doubt, in the interests of trying to be helpful and to provide clarity, I am moving these amendments today. There has been some misleading commentary on the establishment of the LDA and its subsidiaries as designated activity companies under the Companies Act, as if to imply that this is in some way irregular. I

take the opportunity to clarify again that it is standard practice to establish newly created State companies as DACs.

I will now highlight the sections that are being amended so people are clear. Section 7 relates to directions of the Minister. The making of directions by the Minister to the agency in the performance of its functions will also apply to subsidiary DACs. Section 21 relates to membership of either House of the Oireachtas, the European Parliament or local government. The provisions regarding board members and staff ceasing or being seconded from their roles if they become a Member of either House of the Oireachtas, the European Parliament or a member of a local authority will also apply to board members and staff of subsidiary DACs.

Amendment No. 134 deletes section 32(2)(a) and replaces it with a new provision in relation to the establishment of subsidiary DACs that provides that the LDA must obtain prior ministerial consent for the provisions in the constitutions of such subsidiaries that relate to the ownership and control of it. It was always the intent of this section that the LDA would need ministerial consent, but I want to clarify that ministerial approval is required in relation to the establishment of DACs as well as the ownership and control of them. In effect, the LDA will need to seek consent before it establishes any subsidiaries and clarify the ownership of them. It has always been intended that the LDA would establish subsidiary DACs, as this is in line with similar provisions for other commercial State bodies. There is nothing sinister in this, it is standard practice. A range of controls is in place in this legislation and the code of practice for the governance of State bodies in relation to the oversight of the LDA and its subsidiaries. In addition, NewERA will continue to provide advice to my Department on the oversight of the agency. Again, this is in line with provisions for other commercial State bodies.

Amendment No. 184 deletes section 55 and replaces it with more detailed provisions regarding the disposal of land by the LDA or a subsidiary DAC. First, it clarifies that a subsidiary DAC, in line with the LDA, must seek ministerial consent to dispose of land, but that this consent is not required where it is disposing of a single house for rent or purchase. We discussed the issue to some extent earlier. This had always been the intent of the section but it is important to clarify it.

Second, I am bringing an amendment to provide that the LDA or a subsidiary DAC must seek ministerial approval where more than one house is being sold as part of linked transactions. In other words, it will not be able to dispose of more than one house to a single purchaser without seeking ministerial approval. Of course, there will be occasions where it would be appropriate for the LDA or a subsidiary DAC to sell more than one unit to a single purchaser such as a local authority or an affordable housing body. Again, we discussed this earlier.

Amendment No. 194 inserts a new provision in section 59 to provide that in relation to compulsory purchase, land owned by the agency includes land owned by a subsidiary DAC. This again is for clarity, if needed, and the avoidance of doubt, and does not change the intent of this section in any way, shape or form. It ensures that the LDA may acquire land compulsorily where it is required to provide access to relevant public land and land owned by the LDA or a subsidiary DAC or is required to facilitate the provision of infrastructure on relevant public land or land owned by the LDA or a subsidiary DAC.

Amendment No. 231 is a Sinn Féin amendment so I will not speak to that one. The other amendments in this group are Nos. 228, 229 and 230, which amend section 78 to clarify that freedom of information will apply to subsidiary DACs. This is a point I made very strongly when in opposition with regard to the need for the agency to be subject to FOI, which it is. I am

making sure, for the avoidance of any doubt, that subsidiary DACs are also included. Section 78 of the LDA Bill provides that the Freedom of Information Act 2014 will fully apply to the LDA from establishment day and also provides that records held by the dissolved LDA body will continue to be subject to FOI. That is important as it will ensure transparency in the agency's operations. These amendments amend this section to provide that they will apply to subsidiaries of the LDA, which will be subject to FOI with effect from establishment day. That has always been my intention. I said that previously and I do not want to repeat it, but this is a belt and braces to ensure that people are really clear and refrain from making remarks to the contrary in future now that they are fully tied in.

The effective date for FOI for both the LDA and its subsidiaries will be 13 March 2019. This is the effective date, when the existing interim LDA entity's records became subject to FOI, and by applying this effective date to both the commercial LDA and its subsidiaries it will ensure that all LDA functions and operations will be subject to FOI. That is important for the sake of transparency. I want to make it clear that the LDA will be fully accountable to FOI and will come fully under the remit of FOI from establishment day and the normal provision whereby a new State body is not accountable under FOI for a period of six months from the date it is established will not apply to the LDA or any of its subsidiaries. It is important that the LDA is fully transparent in its operations and the amendments to this section will further clarify that. The management of the LDA is also fully committed to this principle. I acknowledge that Deputies have introduced amendments on this issue and I hope they will accept these amendments to clarify that the LDA and its subsidiaries will be fully accountable under FOI, as this is in the interests of all involved.

Chairman: Does Deputy Ó Broin wish to speak to amendment No. 231?

Deputy Eoin Ó Broin: I will speak to the full group if that is okay. I warmly welcome all of these amendments. From the very outset I had a genuine concern about the extent to which FOI, but also other provisions of this Bill, fully applied to the subsidiary designated activity companies. As some Members will be aware, the original design of the LDA Bill under the previous Government separated its commercial and non-commercial activities. Its non-commercial activities were to be subject to FOI and the commercial activities were to be excluded. When I got the draft of this Bill, I wrote to the Information Commissioner asking in particular for his expert opinion on the extent to which the FOI legislation would apply to subsidiary DACs in the pre-amendment section 78. He confirmed in writing that because there was not a date of establishment for the subsidiary DACs, there would be a window - the Minister referred to the exact same six-month period - where they would not be covered. In the first instance, I am more than happy to withdraw my amendment No. 231 because the Minister's three amendments before that adequately deal with it much more eloquently than I would have done and his previous amendments also capture a series of other loopholes.

This is very important. While it is welcome, there is a big difference between the extent of transparency from a commercially established designated activity company, albeit one that is publicly owned, and a State agency that is non-commercial. For example, I can submit a parliamentary question or a question to a local authority manager on the full costings of live social and affordable housing projects, full costings on land transfers and full costings on the details of residential development and they are obliged under law or practice to provide those. Unfortunately, a designated activity company or a subsidiary DAC does not have the same obligation. The minutes of the LDA have been put on the website and I welcome the fact that the agency put them on the website but they are largely redacted. It is important that members fully under-

stand this. I genuinely welcome the Minister's move on this but it does not mean there will be the level of transparency in the operations of the LDA, the principal DAC or subsidiary DACs.

There will be members of this committee - some of them may be in government today, but they could be in opposition in future - who will want by right access to information about public land and public money. We will not get it. The best example is if we look at public private partnerships. All the financial details around the first and second tranche of PPP social housing is withheld from elected members on the grounds of commercial sensitivity. That would be the case with the LDA and with LDA subsidiary DAC activities. Elected members in local authorities and Members of this House will at times be asked whether to support large residential developments without having any visibility of public finance.

This is good news but it is not the same level of transparency or accountability that we would have from a non-commercial state agency. It is important that members understand that. That is the consequence of a commercial DAC and it is one major limitation in the way in which this project is being structured. Anyway, I fully support the Minister's amendments and I am happy to withdraw amendment No. 231.

Deputy Richard Boyd Barrett: The last point there was the one I wanted to make. I will underline it. Even if subsidiary DACs are subject to freedom of information law, the commercial sensitivity issues kick in as soon as we involve private commercial interests. In negotiations between State bodies and local authorities and publicly owned agencies or entities and any form of private commercial interest, those commercial sensitivity issues come in to play. As a result, we do not actually get to see the financial detail. I have been through this saga. I will cite as an instance in this regard the Dún Laoghaire Harbour Company. We successfully campaigned to get the company dissolved and reintegrated into the council. For the years it was in operation, however, we could not find out anything about what it was doing. Notionally, permission had to be sought from the Minister for Transport but in actuality the board of the Dún Laoghaire Harbour Company decided everything and got everything rubber-stamped from the relevant Ministers. The truth is that the local councillors or Deputies could not get any information. Commercial sensitivity was wheeled out for everything. We were told we could not be given certain information because it was commercially sensitive. That is what will happen here. It is one of the key flaws and follies of the whole enterprise as conceived by the Government. Once we bring in arrangements with private business through these DAC structures, commercial sensitivity issues will kick in.

The Minister may claim some credit on amendment No. 184 for requiring ministerial approval for the disposal of land by the DACs but it does not take away from the fact that the cardinal problem is that the DACs will be able to dispose of public land. There are some safeguards but to my mind the safeguards against that are not adequate to protect against the slippery slope or the fact that in reality the driver will be the LDA and not the Minister. Councillors will be last to know. It will be the LDA driving things and getting them rubber-stamped by Ministers. That is my experience of these bodies. To be honest, I do not believe that as time goes on anything will be different with the LDA and these DACs.

Chairman: Does the Minister wish to press amendment No. 55?

Deputy Darragh O'Brien: Yes, I am pressing it.

Amendment put and declared carried.

Deputy Darragh O'Brien: I move amendment No. 56:

In page 11, line 23, after “Agency” to insert “and a subsidiary DAC”.

Amendment agreed to.

Chairman: Amendments Nos. 57 and 58 may be taken together by agreement.

Deputy Eoin Ó Broin: I move amendment No. 57:

In page 11, between lines 23 and 24, to insert the following:

“(4)The content of any such direction shall be published in *Iris Oifigiúil*, in at least one national newspaper, and on the websites of the Minister and of the Land Development Agency.”

As members will know, we had an important presentation and written submission by the Association of Irish Local Government, AILG, which represents local authority councillors from all parties and none, when representatives presented to us some weeks ago. They expressed significant concerns about large parts of this legislation. While they were not opposed to the principle of a land development agency engaged in land management and residential development they were genuinely concerned that it would see a sidelining of the role of local authorities. The fear was that the important work of our local councillors representing local communities would not be taken into account to the same extent as it would be currently with the likes of city and county development plans, strategic development zones, local area plans and Part 8 planning applications, not to mention the thorny issue of section 183 land transfers, which councillors come up against.

The AILG submitted a significant number of amendments and I was more than happy to table them. These are the first two. Amendment No. 57 specifically has a requirement that a direction from the Minister will be published in *Iris Oifigiúil* and at least one nationwide newspaper as well as on the websites of the Minister and the LDA. This is important. This is the argument of the AILG not of Sinn Féin. The AILG makes it clear that this is to ensure transparency. The fear of the AILG representatives is that with the section as currently worded local authorities would not have visibility of a ministerial directive relative to the LDA. That could have significant implications for the local authority, elected members and the wider community in terms of housing and planning operations.

I will set out the position with respect to amendment No. 58 as someone who argued strongly against the strategic housing development legislation in 2016 when others abstained and allowed it to go through. One of the reasons we are seeing an increasing number of large residential housing developments being challenged in the courts is because they are over-riding the city and county development plans. They are actively excluding not only elected members but, crucially, local communities from constructively participating in good planning practices. Amendment No. 58 explicitly requires the Minister to ensure that any directive should have regard to city and county development plans, local area plans and other statutory plans made by the local authority. Given that we now have the Office of the Planning Regulator to ensure consistency in the new round of city and county development plans with Government planning policy, I can see no reason why the Minister would not accept these two reasonable amendments. Again, I emphasise they are not Sinn Féin amendments. They are cross-party and no-party amendments tabled by AILG. I hope the Minister will accept both and I will be interested to hear his response.

Chairman: Does the Minister wish to respond?

Deputy Darragh O'Brien: I see Deputy Boyd Barrett has his hand up.

Chairman: Is it an old hand or a new hand that Deputy Boyd Barrett has raised?

Deputy Richard Boyd Barrett: It is an old hand.

Deputy Darragh O'Brien: I was wondering whether Deputy Boyd Barrett might come in one of these days and welcome something. That would be a new hand.

Chairman: To clarify, is the hand still raised from the Deputy's last contribution? It is. It has gone down.

Deputy Richard Boyd Barrett: It is an old hand.

Chairman: I call on the Minister to respond. We have approximately two minutes. We might be able to get through this amendment, although I am not trying to rush it.

Deputy Darragh O'Brien: I will be really quick. I am not accepting the amendment as ministerial directions will always have due regard to the planning code. They have to. The Land Development Agency, LDA, will seek planning permission for its proposed developments through the appropriate procedures under the Planning and Development Acts in the same manner as any other developer. In making decisions in respect of proposed LDA developments, the relevant planning authority or An Bord Pleanála is required to make its determinations in accordance with the provisions of the relevant development plans, local area plans and strategic development zones that are in force and to which the development site is subject. A number of LDA developments have already been brought through the planning system. Members will know the development at Shanganagh Castle very well. Another such development, mentioned in Deputy Gould's observations, is that at the St. Kevin's Hospital site in Cork city. All planning authorities provide access to pre-application consultations.

Deputy Ó Broin raised the issue of strategic housing developments, SHDs. I have been very clear that that the legislation underpinning SHDs is going to expire and I will not be extending it. I would not conflate the LDA with the SHD process. The Deputy is trying to muddy the water in this space. I will not be accepting these amendments.

Deputy Eoin Ó Broin: I again stress that these amendments were carefully considered by the largest representative organisation for local government councillors in the State, an organisation whose members include councillors from all of our parties. Given that this legislation will have such a profound impact on the role of our local authorities, which may be for the better or for the worse depending on one's point of view, I would hope that it will get more consideration.

To return to my point on the SHDs, the Minister is right that he has given the commitment he has mentioned. It would, of course, have been much better if he or his party had listened to the Opposition back in 2016 when his party colleague, Deputy Cowen, was their housing spokesperson and if they had then opposed the SHD legislation. The Irish Planning Institute, a range of local authority sectors and we in the Opposition fully understood where it would go and we were proved correct. My point is a different one. The SHD legislation created a planning mechanism whereby city and county development plans, local area plans and other plans could be overridden. That has caused considerable difficulty. That is why, for example, local

authorities are taking An Bord Pleanála to court for breaches of those plans. That is why, in this instance, this is really necessary.

I do not believe it is the Minister's intention to use the LDA in the way in which his predecessor used the SHD process. I want to put that on the record. However, unless we have a belt and braces approach, to use the phrase the Minister himself used with regard to the last group of amendments, to ensure that the decisions on which elected members democratically agree after substantial public consultation with regard to city county development plans, local area plans and, crucially, strategic development zones, a particularly contentious issue with regard to Dublin's docklands, are fully respected, a local authority could, in the future, potentially find itself at legal loggerheads with the LDA and the board over, for example, a strategic development zone that conflicts with a county development plan or local area plan. That would not be a healthy place for any of us to be. It would delay residential development and would delay and undermine good quality place making and planning. On that basis, I again urge the Minister and members of the committee to support these two amendments.

Deputy Darragh O'Brien: I do not mean to cut across Deputy Ó Broin but, to be helpful, I will have a further look at amendment No. 58 to see how to incorporate the approach I mentioned in the phrase I used to which the Deputy made reference. In no way, shape or form do we want to allow the LDA to circumvent the planning process. Its applications will go through the normal planning process. If there is something additional I can do to include something of the purpose of amendment No. 58 in an appropriate place on Report Stage, I will do so. I will come back to Deputy Ó Broin in respect of amendment No. 58 but I cannot accept No. 57. It refers to "The content of any such direction" but it may not be appropriate to publish some directions, at least in full. Regulations are obviously published. Other State agencies do not publish the content of ministerial directions. I have carefully considered the amendments. I will look at No. 58 again and revert to the Deputy but I cannot accept either amendment at this stage.

Deputy Eoin Ó Broin: I am more than happy to withdraw No. 58 on the grounds of what the Minister has said, although I obviously reserve the right to reintroduce it. With regard to No. 57, will the Minister outline the type of directions with regard to the LDA, public land and taxpayers' money he believes should not be in the public domain? I am open to being convinced but I cannot see why such directions would not be a matter of public record, given everything the Minister said about wanting the maximum level of transparency when we were discussing the last amendments.

Deputy Darragh O'Brien: We do want the maximum level of transparency and oversight but we also want to make sure the agency can operate. The amendment refers to any direction at all. It is a blanket provision for any ministerial direction. There may be commercially sensitive issues discussed in such directions or it may be necessary not to publish them to protect the State's interests. We are not in a position to accept amendment No. 57 at this stage. As I have said, I will look again at No. 58. Of course, the Deputy will reserve the right to reintroduce it if he is not happy with what we come back with. That is absolutely fine. I cannot, however, accept No. 57.

Chairman: We are just out of time but if Deputy Ó Broin wishes to press No. 57, we can take that vote now and then complete consideration of the section. We would then recommence on section 8 at our next meeting. If the Deputy wishes to discuss the amendment further, we will have to return to this debate in a later meeting.

Deputy Richard Boyd Barrett: I will press the amendment.

3 June 2021

Chairman: The question is “that amendment No. 57 be made”. Those in favour say “Tá”.

Deputy Darragh O’Brien: Tá.

Chairman: Those against say “Níl”.

Deputy Eoin Ó Broin: Níl.

Chairman: I believe the amendment is lost.

Deputy Eoin Ó Broin: Vótáil.

Chairman: We have to finish up now. When we reconvene at 9.30 a.m. on Thursday, we will hold the vote on amendment No. 57. I understand that Deputy Ó Broin is to withdraw No. 58. The Minister will come back on Report Stage in that regard.

Deputy Eoin Ó Broin: May I ask a very quick question? On Thursday, should we convene in the first instance in the committee room to allow that vote to proceed rather than starting remotely and having to be called down?

Chairman: I believe the Standing Orders require us to ring the bells. I do not know. I will err on the side of caution but I will double-check the procedure.

Deputy Eoin Ó Broin: Perhaps the Chairman could let us know by email.

Chairman: I thank members for their assistance in getting through these amendments and I thank the Minister for his attendance.

Progress reported; Committee to sit again.

The select committee adjourned at 5.38 p.m. until 9.30 a.m. on Thursday, 3 June 2021.