Planning and Development (No.1) Bill 2014.

Construction 2020 Actions
Amendments to Planning and Development Acts 2000 – 2013

SCSI Submission to the Joint Oireachtas Committee on Environment, Culture and the Gaeltacht

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Introduction

The Society of Chartered Surveyors Ireland (SCSI) is the independent professional body for Chartered Surveyors working and practicing in Ireland. Working in partnership with the Royal Institution of Chartered Surveyors (RICS), the global body for Chartered Surveyors, our role is to work and act in the public interest.

The Society welcomes the publication of the General Scheme of the Planning & Development (No. 1) Bill 2014 and in particular the provisions to enact Government's Construction 2020 Strategy which is intended to result in a renewed construction sector.

Construction 2020 is a very positive step by Government and has identified 75 measures aims to facilitate an increase in the supply of housing with the potential to create 60,000 additional jobs in the construction sector. This strategy is particularly welcome in the context of the sector where employment has collapsed from approximately 375,000 to around 150,000.

Output in the construction sector was c€8bn in 2013 and although this is expected to rise modestly in 2014. The sector, however, is still operating at around half of the size it should be for an economy the size of Ireland according to European standards which is around 12% of GNP.

Furthermore, the lack of construction in recent years has seen residential construction decline from 89,000 units per annum to 8,301 in 2013. According to the latest completion figures from Department of Environment, Community & Local Government, 8796 units were completed in the first 10 months of 2014 with approximately 25% of these occurring in the Dublin area.

The Housing Agency has projected a requirement for around 80,000 units over the next 5 years and SCSI undertook some research into Housing Capacity in Dublin which identified a *minimum* requirement of approximately 35,000 units in Dublin over the next 5 years.

Local Authority	Zoned for Residential Development	Minimum Housing Requirement (2014-2018)	Granted Planning Permissions	% Surplus/ Deficit
DCC	313 ha	13,751 Units	2,444 Units	– 82%
FCC	1,065 ha	9,617 Units	15,583 Units	+ 62%
DLRCC	302 ha	3,299 Units	6,070 Units	+ 84%
SDCC	553 ha	8,766 Units	2,483 Units	– 72%
Total	2,233 ha	35,433 Units	26,580 Units	– 25%

Source: SCSI Housing Capacity Requirements in Dublin's Urban Settlements 2014-18

The lack of supply of housing is directly contributing to increases in property prices and according to the Central Statistics Office Residential Property Price Index which were 16.2% higher in October 2014 year on year and 22% higher in Dublin.

The SCSI welcomes all measures that will facilitate the development of a more sustainable construction and property sector for the benefit of the country and our economic competitiveness.

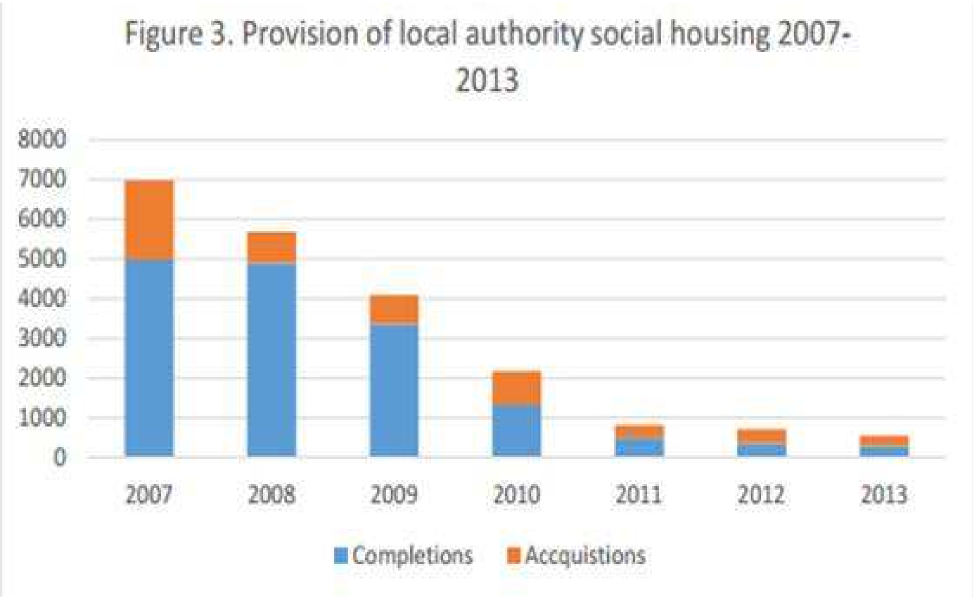
The SCSI welcomes the majority of measures as outlined in the general scheme of the Planning & Development No. 1 Bill. It would, however, like to highlight certain issues and make some recommendations which are outlined in the document. A summary of some of the points follows:

- We agree with the provisions to reduce Part V to 10% for social housing and would also suggest that Part V alone is insufficient to meet the social housing provision needs of the estimated 89,000 people in need of social housing support. We welcome the recent Social Housing Strategy 2020 announced by Government which features more public capital investment in social housing.
- The SCSI agrees with onsite provision of social housing being predominately the default position but there should be some flexibility where the proposed development location or property type is unsuitable or where there is likely to be insufficient demand.
- In principle, the SCSI agrees with the measure to introduce a vacant site levy as a means of stimulating construction to meet housing and economic requirements although we do have some concerns. Firstly, it is still not economically viable to build on sites around the country, particularly outside of main urban/city areas and the levy may not achieve its objective to stimulate development if it is not viable to do so or if there is simply no demand for the final product. Secondly, it may penalise smaller landowners in favour of better funded landowners who can absorb the cost until market conditions improve. Finally, the cost of the levy may be passed onto prospective purchasers thus increasing the price of land. Despite some media reports, there are very few developers purchasing development land outside of main urban centres as it is still economically unviable to develop many of the sites due to the lack of finance availability, construction costs and a lack of demand particularly in regional locations where there is still an oversupply of property and high vacancy rates.
- SCSI also notes that the additional 1% per year increments in addition to the 3% levy up to 6% is overly penal on landowners, particularly where there is unlikely to be demand for development on these sites. As such we recommend that Financial Viability Testing is carried out to assess liability for the levy.
- SCSI believes that there should also be some flexibility around the 3 year timeframe and that a Financial Viability Testing assessment should be undertaken which also takes into account of market conditions.
- If introduced in its current format, SCSI believes that the levy should also apply to land owned by local authorities and semi-states which are among the largest land bank holders in the country.
- The SCSI has a concern with the measure which allows the local authority to determine the market valuation and which prescribes that valuations should be carried out by members of a single membership organisation. We would note that local authorities usually have a competitive bidding process for valuations and that including members of one body while excluding other professionals is anti-competitive and overly prescriptive, particularly as local authorities already have valuer panels in place.
- SCSI agrees that a Tribunal is required but that this should be in the form of an experienced property valuation arbitrator as the Valuation Tribunal is not involved in market valuation issues but rather rateable valuations for rating purposes which is markedly different.
- SCSI agrees with the measure to reduce development contribution levies for planning permissions yet to be activated retrospectively and believe this will support development and increased supply.
- SCSI agrees that the register should be maintained by the local authority and recommends that the register is published online in the interests of transparency.
- In relation to the planning permissions SCSI believes that there should be some viability testing to consider other reasons for developments not going ahead within the 2 year time scale i.e. due to funding issues, infrastructure deficits and lack of demand for the development.

Head 4: Part V

Head 4B Relating to Housing Strategies

- The SCSI notes with the intention to reduce the Part V obligation to reduce the requirement to provide 10% social housing. This should improve the viability of developments and in particular where there is existing planning permission.
- The SCSI would highlight that the provision of social housing cannot be met solely from the private sector which is cyclical in nature and that a sustained level of capital investment is needed by Government to meet the needs of the estimated 89,000 people in need of social housing support. The SCSI therefore welcomes the recent Social Housing Strategy which outlined the Government's plan to build or refurbish 35,000 social housing units by 2020.
- The SCSI agrees with onsite provision of social housing being predominately the default position but there should be some flexibility where the proposed development location or property type is unsuitable or where there is likely to be insufficient demand. For example, if the development is located in an area without adequate public transport links or access to services, there will be little demand for social housing and this should be taken into account and alternatives should be considered.
- The expectation that Part V reform will make developments more viable and therefore kick start construction may be somewhat simplistic. Part V reform alone will not kick start construction as a series of issues including development contributions, infrastructure requirements, access to funding and viability are also hindering construction activity.



Source: Department of the Environment, Community and Local Government

Head 4C: Alternative Agreements

- We note the proposal that a monetary payment shall no longer be an alternative option to units or land.
- If this is to be the case, our view is that it is essential that there is flexibility in relation to the onsite unit provision. For example if there is unlikely to be sufficient demand for social housing in a particular location it is crucial that a local authority have alternative options available to them. It has been noted there are cases whereby the social housing available is on sites where there is poor infrastructure/ public transport and other facilities available and in such cases it is advisable to have some degree of flexibility to take into account the requirements of those in need of social housing support.
- SCSI notes that the acquisition of social housing by the planning authority or an approved housing body however long term leasing by local authorities will also assist in improving the viability of developments to increase supply and this model should be supported as is the case in other European countries.
- The SCSI agrees with the application of the new Part V provisions/conditions to existing permissions.
- SCSI agrees with the limiting of the application of Part V to developments with 10 or more houses as this would improve viability and stimulate housing construction. Stimulating construction and improving the viability is likely to result in more developments being brought to the market.

Head 4D - Developments to which Section 96 shall not apply

- SCSI agrees with the intention to ban the application of section 96 to proposed developments consisting of 9 houses or fewer which is currently set at 4 houses or fewer.

Head 5 – Vacant Site Levy

Head 5 - Insertion of New Part XIVA – Vacant site levy

- In principle, the SCSI agrees with the measure to introduce a vacant site levy as a means of stimulating construction to meet housing and economic requirements although we do have some concerns. Firstly, it is still not economically viable to build on sites around the country, particularly outside of main urban/city areas and the levy may not achieve its objective to stimulate development if it is not viable to do so or if there is simply no demand for the final product. Secondly, it may penalise smaller landowners in favour of better funded landowners who can absorb the cost until market conditions improve. Finally, the cost of the levy may be passed onto prospective purchasers thus increasing the price of land. Despite some media reports, there are very few developers purchasing development land outside of main urban centres as it is still economically unviable to develop many of the sites due to the lack of finance availability, construction costs and a lack of demand particularly in regional locations where there is still an oversupply of property and high vacancy rates.

Head 5A – Interpretation

- SCSI notes the definition of the term ‘undue hardship’ which outlines exemptions from the Vacant Site levy for certain owners and vacant and underutilised sites i.e. Buildings in receivership, insolvency, NAMA etc.
- SCSI questions how the decision of whether a site is determined as commercially unviable is to be made and recommends that an arbitrator is appointed where the viability is in question. There needs to be some criteria to support such decisions.
- SCSI does not agree with exempting vacant sites in the ownership of the state, state agencies, semi state bodies and local authorities. The principal of the Bill is to stimulate housing provision and development and given the fact that semi states and local authorities are among the largest land owner’s in the country, and in particular of viable land banks, we see no reason why the levy should not apply to them in addition to sites in private ownership in the interests of equity.

Head 5B – Enabling local authorities to incentivise development of vacant sites

- SCSI agrees with the principal of the levy which is to optimise the use of strategically located lands which would otherwise hinder the objectives of relevant core strategies, housing strategies or retail strategies in City and County Development Plans, Strategic Development Zone Planning Schemes and Local Area Plans.
- It does however believe that if the local authority has the power to apply a vacant site levy on that basis, in the interests of transparency and equity, the SCSI would request that an arbitration process is put in place to ensure fairness to all sides.
- In earlier submissions, the SCSI did note that in many cases, the reason why sites were not being brought forward was due to the fact that they were simply not economically viable rather than being held back.
- The SCI also notes that the Derelict Sites Act 1990 is already enacted and could be extended to cover vacant sites rather than new legislation being proposed and introduced. This would appear to be a pragmatic approach given the Derelict Site levy is set at 3%, the same level as the proposed Vacant Site levy.
- The SCSI supports the measure to reduce development contribution levies where it is deemed the site can avail of existing infrastructure.

- The SCSI notes that if local authority owned lands were also liable for the levy, there could be an incentive for both local authorities and private developers to develop adjoining lands or contribute to required infrastructure as a means of developing larger sites and benefitting from economies of scale.
- The SCSI notes the proposed measure to empower the planning authority to apply the levy if the vacant or underutilised site is the subject of an objective in the relevant development plan. The SCSI recommends that an independent arbitrator is available to provide a mechanism of redress for site owners in these circumstances.

The SCSI notes that the levy may only be activated in respect of vacant or underutilised sites where there is a failure to:

- commence development authorised by a planning permission for a vacant or underutilised site in a designated area covered by a relevant plan or scheme within 3 years of the grant of permission, or
- lodge a planning application in respect of a vacant or underutilised site in a designated area covered by a relevant plan or scheme within 3 years of the making of a development plan or scheme, and where such a plan or scheme includes the objective to secure the development or reuse of vacant or underutilised sites in designated areas covered by the relevant plan or scheme.

SCSI believes that there should be some flexibility around the 3 year timeframe and that a Financial Viability Testing assessment should be undertaken which also takes into account of market conditions.

Head 5C - Levy on vacant sites

- SCSI views the additional 1% per year increments in addition to the 3% levy of up to 6% is overly penal on landowners, particularly where there is unlikely to be demand for development on these sites. For example, in regional areas, there is little demand for new housing construction as a result of oversupply. As such we recommend that financial viability testing is carried out to assess liability for the levy.
- The SCSI notes the Derelict Act 1990 which also applies a 3% levy and questions the need for separate legislation for vacant sites.
- For example, could the derelict act be extended to cover vacant sites in addition to derelict sites in terms of implementation?

Head 5E – Register of vacant or underutilised sites and appeals

- SCSI agrees that the register should be maintained by the local authority and recommends that the register is published online in the interests of transparency.
- The SCSI is of the view that more informed policy making can be undertaken with more access to data and information and this register will support that objective.

Head 5F - Market valuation of vacant or underutilised site

- The SCSI has a concern with the proposed measure which allows the local authority to determine the market valuation and which is prescribed in document to be carried out by two members of the Institute of Professional Auctioneers & Valuers (IPAV).
- Following on from the property crash of 2008, and the subsequent first draft of a report published by the Central Bank in 2011 (final version published in 2012), *'Valuation Processes in the Banking Crisis – Lessons Learned – Guiding the Future'*, it was highlighted that many professionals in the banking industry lacked the appreciation

and significance of property valuations in the lending process. The report referred to the valuation standards and principles developed by the RICS/SCSI, in accordance with international valuation standards, also known as the Red Book. Red Book standards are mandatory for all SCSI/RICS members**.**

- We would note that local authorities usually have a competitive bidding process for valuations and that including members of one body while excluding other professionals is anti-competitive and overly prescriptive as local authorities already have valuer panels in place.
- We recommend that either SCSI/RICS members are included or that the appointment of a valuer is left to the tendering process in place by the Local Authority.
- Head 5F also refers to a Tribunal which is noted on pg. 16 as the Valuation Tribunal established under section 2 of the Valuation Act, 1988.
- SCSI agrees that a Tribunal or arbitration process is required but that this should be in the form of an experienced property valuation arbitrator as the Valuation Tribunal is not involved in market valuation issues but rather rateable valuations for rating purposes which is markedly different.

Head 6: Development Contributions

A significant barrier to unlocking supply of residential homes is the requirement to fund infrastructure in advance of the development being completed. This is problematic and leads to delays in completion of developments. There are also situations whereby funding for the delivery of a piece of local infrastructure is required by a number of landowners/developers (i.e. a traffic calming measures or roundabouts) but the developers may be at different stages of development or even insolvent. This means that the local piece of infrastructure cannot be financed and thus the development which is ready cannot be completed. In the UK, Revolving Infrastructure Funds (RIFs) are being introduced as a funding mechanism for infrastructure ahead of developments being completed.

Development contributions, which have been reduced across the four local authorities, are still too high and are a major obstacle to development. The SCSI Construction Tender Price Index shows that the latest tender prices are approximately a third lower than they were at the peak, yet development contributions have not fallen by the same amount. In order to increase the provision of residential and commercial property. Going forward development contributions should be index linked to reflect market changes.

Head 6A Reduced development contributions for planning permissions yet to be activated

- SCSI agrees with the measure to reduce development contribution levies for planning permissions yet to be activated retrospectively and believe this will support development and increased supply.

Head 6B Reduced supplementary development contributions for planning permissions yet to be activated

- SCSI agrees with the measure that where a new supplementary development contribution scheme is adopted by a planning authority to provide for reduced supplementary development contributions than those which were provided for under the previous scheme, the reduced supplementary development contributions under the new scheme shall have retrospective effect in respect of planning permissions granted prior to the date of the adoption of the revised scheme, subject to the development, or part of that development, not having commenced prior to the date of the adoption of the revised scheme.

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Section 7: Planning Permissions

Head 7 Modification of duration of planning permissions in certain circumstances [use it or lose it]

- In relation to the 'use it or lose it' approach in respect of future planning permissions whereby planning authorities shall be enabled to reduce the duration of planning permissions in respect of developments of scale (housing projects of 10 houses or more) by a period not exceeding 2 years where a development has not commenced in line with the development schedule indicated as part of an application for planning permission, the SCSI believes that there should be **viability testing** to consider other reasons for developments not going ahead within the 2 year time scale i.e. due to funding issues, infrastructure deficits, lack of demand for the development.
- SCSI notes the provision that where a developer satisfies a planning authority that there were commercial, infrastructural, and technical or other considerations justifying the non-commencement of a development in line with the development schedule indicated in a planning application, a planning authority shall not reduce the duration of the permission.
- SCSI recommends that there should also be some form of redress or arbitration available in cases of contention.

About the SCSI

Dating back to 1895, the Society of Chartered Surveyors Ireland is the independent professional body for Chartered Surveyors working and practicing in Ireland.

Working in partnership with RICS, the pre-eminent Chartered professional body for the construction, land and property sectors around the world, the Society and RICS act in the public interest: setting and maintaining the highest standards of competence and integrity among the profession; and providing impartial, authoritative advice on key issues for business, society and governments worldwide.

Advancing standards in construction, land and property, the Chartered Surveyor professional qualification is the world's leading qualification when it comes to professional standards. In a world where more and more people, governments, banks and commercial organisations demand greater certainty of professional standards and ethics, attaining the Chartered Surveyor qualification is the recognized mark of property professionalism.

Members of the profession are typically employed in the construction, land and property markets through private practice, in central and local government, in state agencies, in academic institutions, in business organisations and in non-governmental organisations.

Members' services are diverse and can include offering strategic advice on the economics, valuation, law, technology, finance and management in all aspects of the construction, land and property industry.

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