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Reference: General Scheme of Housing and Planning and Development Bill, 2019

A Chara,

The Irish Planning Institute (IPI) welcomes the opportunity to provide comments to the Department of Housing, Planning and Local Government on the General Scheme of Housing and Planning and Development Bill 2019.

Delays in the delivery of housing and other key infrastructure projects are frequently attributed to the Judicial Review Process and receive considerable attention in the media. This submission will present comments of the Institute in three sections:

- General reform;
- Standings; and
- Recommendations and conclusion.

General Reform

- The IPI fully supports the introduction of a new provision under which the right to initiate a Judicial Review challenge will be restricted to decisions determined by An Bord Pleanála. This will ensure that a planning case goes through the planning system before a Judicial Review challenge can be initiated.
- Clarification on the “alleged deficiency” and how this would work in practice is required. There is no existing process for a 3rd party to rectify a deficiency in a Board decision. We believe that a complimentary process will be needed to address this.

Standing

- The Bill reintroduces “leave on notice” which the IPI is hopeful may reduce the number of cases that progress to a full JR hearing. The IPI acknowledges, however, that this is not a guaranteed outcome.
- The IPI welcomes the proposed change from “sufficient interest” to “substantial interest”. The IPI also welcomes the reintroduction of the requirement that the applicant must have previously participated in the planning process in relation to the case in question. This will restrict ‘serial

objectors' lodging a judicial review application "at the last minute" without having any previous involvement in the planning case in question, and without good reason.

- The IPI notes that the proposed extension of the minimum time that an NGO must be in existence before it can challenge a planning decision will be increased 12 months to three years. The IPI believes that this could have a significant impact, for example, on local groups that form around a specific and legitimate local planning or environmental issue. We believe that the existing provision should not be changed.

Recommendations and conclusion

- Clarity in the process around general reform and standing is welcomed, subject to some clarifications and potential additional process.
- We support the proposals in standing around leave on notice and sufficient interest and believe they are adequate to address the broad issues relating to standing at this point in time. However, we do not support the extension of time required for NGOs, as this may exclude from the process groups with legitimate concerns. We believe that the other measures around standing in the Bill are adequate at this stage.
- The IPI maintains that the most effective means of reducing the costs and delay often associated with Judicial Reviews on planning matters, is to establish a court that specialises in planning matters (Ideally a Planning and Environmental Court, or a division of the High Court).

The Institute welcomes the opportunity to discuss this submission further with the Department of Housing, Planning and Local Government.

Yours sincerely,



Conor Norton MIPI

President 2020 - 2021

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