

**That Cork County Council would invoke its powers under Section 35 of the Planning & Development Act 2000 and refuse to grant planning permission for new developments to developers who have left unfinished residential estates in either County Cork or any other county in Ireland.**

19,118 families live in 492 unfinished estates around the country. As they drive out to work each day, as their children play on their bikes, as they come home from school, they live with 7,941 units in those estates which are either empty or unfinished. They avoid the ironwork sticking out of their estate roads in case they burst a tyre. They endure abandoned cars and dumping. Some walk home in the dark because there are no streetlights. Some have had intolerable sewerage issues. There are many who fear letting their children out to play in case they become hurt on what is essentially a building site. They bought their homes on the promise of approved plans. Even if selling up and moving on were possible, many paid Celtic Tiger prices that they can never hope to realise. Locked in as they are to broken promises and broken dreams, many have the ultimate insult of having to pay property tax.

There are 176 unfinished estates around the country that are unoccupied. Nobody living in them. 83 of these are almost complete, viable units in urban locations which could offer badly needed housing. 34 of them are no-hopers, shells in abandoned sites on the edges of rural villages. Their impact on the wider society, community and economy is substantial.

Those are this year's statistics. But when the Advisory Group on Unfinished Housing Developments was first established in 2010, there were 2,846 unfinished estates throughout the country comprising 242,550 dwellings.

There is one unfinished estate in a town not very far from here. About one third of the development is complete. Built in the height of the Celtic Tiger, prospective purchasers queued overnight to secure their dream home. Several years on, the developer went into receivership with debts of almost a six figure sum taken into NAMA. Only that portion of the estate behind construction fencing was deemed unfinished by Revenue. Many of the residents mistakenly thought they were exempt from property tax, only to recently receive a 3-year settlement invoice. Interventions on their behalf did not even elicit a response from Revenue.

The developer applied for planning permission to build on two other sites in the same town. Most thought it was an attempt to maximise asset value. Unpalatable but understandable. But most recently a family member, operating under a different company name but with the same registered address has applied for permission to build houses on one of those two sites.

It is not acceptable to graffiti public property. It is not acceptable to litter the street. It is not acceptable to allow your dog defecate a public footpath. It is not acceptable to vandalise, to steal, to harm. Basically, it is not acceptable to burden society through irresponsible actions. Those who do are held to account by laws, designed for that purpose.

Equally, there is a law designed to hold to account developers who leave a similar burden on society. Section 35 of the Planning & Development Act 2000 gives local authorities the freedom to refuse planning permission if they think, based on past performance, that

a development may not be finished as it should be. That refusal may be applied to a developer, to a partnership of which that developer is or was a member. If a company is applying for the planning permission, the refusal may be applied to that company, a company related to the company ... Section 35 allows all sorts of permutations to a basic aim: to hold to account developers who have left a burden on society.

Section 35 can be used only by local authorities. Not the High Court, not An Bord Pleanála, just local authorities. Yet to the best of my knowledge, it has never once been used by any local authority in the country. I am asking that Cork County Council would use Section 35 of the Planning & Development Act 2000 in support of the people, the society and the economy of this county if any person or company who has left behind an unsatisfactorily, unfinished development anywhere in Ireland applies for planning permission to build in County Cork.

35.-(1) Where, having regard to- (a) any information furnished pursuant to regulations made under section 33(2)(l), or

(b) any information available to the planning authority concerning development carried out by a person to whom this section applies, pursuant to a permission (in this subsection and subsection (2) referred to as a "previous permission") granted to the applicant or to any other person under this Part or Part IV of the Act of 1963,

the planning authority is satisfied that a person or company to whom this section applies is not in compliance with the previous permission, or with a condition to which the previous permission is subject, the authority may form the opinion-

(i) that there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with such permission if granted or with a condition to which such permission if granted would be subject, and

(ii) that planning permission should not be granted to the applicant concerned in respect of that development.

(2) In forming its opinion under subsection (1), the planning authority shall only consider those failures to comply with any previous permission, or with any condition to which that permission is subject, that are of a substantial nature.

(3) An opinion under this subsection shall not be a decision on an application for permission for the purposes of this Part.

(4) Where the planning authority has formed an opinion under subsection (1), the planning authority shall apply, by motion on notice to the person to whom the opinion concerned relates, to the High Court for an authorisation to refuse permission and the High Court, on hearing the application-

(a) may grant an authorisation to the authority to refuse permission for that reason, or

(b) may refuse to grant an authorisation to the authority to refuse permission and shall remit the application to the authority for decision, or

(c) may give such other directions to the authority as the Court considers appropriate.

(5) (a) Subsection (8)(a) in section 34 shall not apply where an application to the High Court under subsection (4) is made within the period of 8 weeks from the date of the making of an application for permission under this section.

(b) Where, under subsection (4)(b), a matter is remitted to the planning authority, a

decision on the permission shall be made within the period of 8 weeks from the date of the decision of the High Court, and subsection (8)(b) in section 34 shall be construed and have effect in accordance with this subsection.

(6) Where an authority is granted an authorisation by the Court under subsection (4)(a) to refuse a permission, no appeal shall lie to the Board from that refusal.

(7) In this section, "a person to whom this section applies" means-

(a) the applicant for the permission concerned,

(b) a partnership of which the applicant is or was a member and which, during the membership of that applicant, carried out a development referred to in subsection (1)(b),

(c) in the case where the applicant for permission is a company-

(i) the company concerned is related to a company (within the meaning of section 140(5) of the Companies Act, 1990) which carried out a development referred to in subsection (1)(b), or

(ii) the company concerned is under the same control as a company which carried out a development referred to in subsection (1)(b), where "control" has the same meaning as in section 26(3) of the Companies Act, 1990,

or

(d) a company which carried out a development referred to in subsection (1)(b), which company is controlled by the applicant-

(i) where "control" has the same meaning as in section 26(3) of the Companies Act, 1990, or

(ii) as a shadow director within the meaning of section 27(1) of the Companies Act, 1990.