

# Cllr. Marcia D'Alton

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Housing and Planning and Development Bill 2019 Submissions,  
Planning Policy and Legislation Section,  
Department of Housing, Planning and Local Government,  
Custom House,  
Dublin D01 W6X0

27<sup>th</sup> January 2020.

## **RE: Housing and Planning and Development Bill 2019**

To whom it may concern.

As an elected member of the Carrigaline Municipal District of Cork County Council, I represent many residents of a number of towns who have been significantly impacted by locally unwelcome developments advanced through the Planning & Development (Strategic Infrastructure) Act 2006. I have played a prominent role in representing my own and local views about the unsuitability of those developments for the locations for which they were proposed. I have worked through the An Bord Pleanála appeals system and know how difficult partaking in the oral hearing process on an equal footing with a project promoter or their consultants can be for the ordinary citizen. I have also been part of leaping the hurdles that challenge communities in gaining access to judicial review. As of now, those hurdles are almost insurmountable. That this Bill proposes to make that bar yet higher is incomprehensible to me and to those whom I represent.

The best summation of my views and those whom I represent in my community that I have seen has been expressed by Áine Ryall in a piece published in PILA, the bulletin of the Public Interest Law Alliance. It can be accessed at the following link:

<https://www.pila.ie/resources/bulletin/2020/01/22/guest-piece-by-ine-ryall-future-of-environmental-judiciaA-review-under-threat>

I recall the presentation given by M. Aurel Ciobanu-Dordea, DG Environment, to the Environment Ireland Conference 2019 in Croke Park on 2<sup>nd</sup> October last year. Whilst complimenting the advances Ireland has made in recent years in a number of areas where we would historically have demonstrated poor environmental performance, he commented specifically on five issues which remain of grave concern to DG Environment. One of those five is the difficulty of access to justice in environmental cases. Should the proposals outlined in this Bill be enacted, that access to justice will be almost totally denied. This is directly in contravention of what is required by the Aarhus Convention and is most

certainly diametrically opposed to the direction DG Environment indicated it wanted Ireland to take with regard to enhancing the ease of access to justice.

Sound development proposals coupled with good decision-making by planning authorities is the most just and most sustainable way to minimise the need to seek judicial review. To this end, it is critical that our planning authorities are adequately resourced. I see our own planners in Cork County Council stretched to the last with the volume of work they are required to undertake. To be under such a workload inevitably undermines the quality of decision-making. Although An Bord Pleanála's workload was increased significantly particularly with the introduction of the Planning & Development (Strategic Housing Development) Regulations 2017, the Board has not been additionally resourced. When assessing planning applications, particularly those lodged under the Planning & Development (Strategic Infrastructure Development) Act 2006, An Bord Pleanála is sometimes required to take significant decisions on highly technical issues such as dioxin. The Board must be adequately resourced with independent relevant specialised expertise, either in-house or externally, so that in its decision-making it is not obliged to rely only on expertise provided by either the applicant, the appellant, or both.

A further critical action in reducing dissatisfaction with decisions arising from the planning process is to improve the quality of public consultation. In this regard, I quote from the submission of the Citizen's Information Board to the Department of Public Expenditure and Reform in October 2015 (ref. [https://www.citizensinformationboard.ie/downloads/social\\_policy/submissions2015/DPER\\_Public\\_Consultation\\_Guidelines\\_Oct2015.pdf](https://www.citizensinformationboard.ie/downloads/social_policy/submissions2015/DPER_Public_Consultation_Guidelines_Oct2015.pdf)) which notes the "clear need for more a organic engagement with individuals and groups". Our relatively extensive experience is that consultation for the purposes of planning applications generally constitutes inviting comment from an affected public on the final draft of project drawings. This is not consultation but rather a box-ticking exercise that often achieves little more than to raise resentment and suspicion. If communities and stakeholders are genuinely involved from the outset, planning applications will be generally be supported rather than challenged. The statutory planning process would benefit significantly from clear and proactive guidelines for developers around consultation.

Consultation Principles and Guidance outlined by the Department of Public Expenditure and Reform advise that "*consultation should aim to achieve real engagement and 'real listening' rather than being a pro-forma exercise for bureaucratic purposes. A genuine consultation process ensures that the real-world impact of policy options is considered*". It is my sincere request that this and other submissions received during the consultation process on this Bill are given that "real-world" consideration and that the proposals made in this Bill for further restricting access to justice in environmental matters are abandoned in entirety.

Yours faithfully,



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Marcia D'Alton  
Independent Member, Cork County Council