



**WITHERING
PERMISSIONS:
PLANNING AND
DEVELOPMENT
(AMENDMENT)
ACT, 2002**

Planning Permissions which would have withered (i.e. ceased "to have effect") under S96 (15) of the Planning and Development Act, 2000 (a "Withering Permission") will now have the normal life of a planning permission (usually five years) by reason of the 2002 Planning Act. However, there is a price to be paid.

A Withering Permission is one granted for residential development on foot of an application for permission lodged after 25 August 1999 and before the planning authority incorporated its housing strategy into its development plan. Under the 2000 Act the permission withered on 31 December 2002 or two years from the date of the permission, whichever be the later.

Dwellings built on foot of a permission which would have withered but for the 2002 Act will be subject to a levy of 1% of the sale price if equal to or in excess of EUR270,000.00, or 0.5% of the sale price if less than that amount.

There are provisions in the 2002 Act to prevent this levy being passed on to a purchaser. The levy will not apply to any planning permission for four or less dwellings or for housing on land of 0.1 hectares or less. Nor will it apply to dwellings the external walls of which are completed within two years from the date of the permission, or by 31 December 2002, whichever be the later (the "Exemptions").

Practitioners should note that when acting in the purchase of a dwelling erected on foot of a permission which would have withered but for the 2002 Act, and which does not come within the Exemptions, they will require a receipt from the planning authority confirming payment of the levy in respect of that dwelling prior to or on completion of the purchase.