



**On the market**  
A coastal Cork haven page 7

**Fine arts**  
Chair yourself up at de Veres' latest sale page 8

## SMART MOVES

### How to speed up a property sale

Selling up is not a simple case of engaging an estate agent and waiting for bids – there's plenty of groundwork only a vendor can do, although a new task force is helping to streamline the practice



**Tina-Marie O'Neill**  
Property Editor

If you're thinking of selling your property, don't delay. The conveyancing process can be a lengthy one, especially if vendors and buyers don't do their homework. Added to that, the real estate sector's Covid-19-related three-month hiatus has led to a surge in demand now that agents are back at work.

"2,191 – that's the number of people who have made appointments to view houses in the first week we re-opened," said Keith Lowe, chief executive of DNG. "We expected a surge, but this is unprecedented."

"There's 20 per cent less stock for sale on Myhome.ie now than there was a year ago. New homes construction has been on hold for three months, so release dates have been pushed back and potential downsizers, many of whom are cocooning, have put off selling."

"We've also seen a wave of interest from people who know what they want after being cooped up in their homes for months, from those who feel they're rattling around in too-large a property, and interest from overseas in terms of people who don't like the way Covid-19 has been handled where they are."

"It's still cheaper to service a monthly mortgage than pay rent, and for those who are in the market and can purchase, do it. Covid-19 has either stopped or delayed half of our 2.4 million workforce from securing a mortgage."

"There's a whole cohort of buyers who have lost jobs, have had massive pay cuts, or their employers have applied for Covid-19 payments, which means lenders will not entertain their mortgage applications."

Lowe warned that pandemic-related delays of valuations and surveys would also have a knock-on effect on transactions. "If you have decided to sell up, contact your solicitor and go and get your deeds immediately," he said. He also recommended viewing property via 3D or virtual tours, which often eliminates the need to physically see the property.

#### The selling process

The conveyancing process – the legal transfer of property from one party to another – as well as often being protracted, can be complex. Would-be vendors take note: selling up is not a simple case of engaging an estate agent and waiting for bids to come in. There's plenty of groundwork that only a vendor can do to get the ball rolling.

Michael Walsh is a partner and head of real estate at ByrneWallace solicitors. He's also the chair of the Law Society's Pre-Contract Investigation of Title (PCIT), task force and the society's newly-established task force to reform the conveyancing practice.

The PCIT system was introduced in January 2019. According to Walsh, its main purpose was to improve transaction timelines and efficiency by creating a single workflow and to advance most of the information and work to the pre-contract phase.

Before PCIT, many solicitors would only learn that their client was selling up when they received a 'Sale Advice



**Robert Hoban: 'The landscape for buying and renting has changed totally'**



**"We've seen a wave of interest from people who know what they want after being cooped up in their homes for months"**



**Michael Walsh: 'More and more, solicitors have become gatekeepers'**



The three-month hiatus caused by the coronavirus has now led to a surge in pent-up demand for property Getty

Notice' from the estate agent requesting for the contracts to be issued to the buyer's solicitor after the property went sale agreed.

If issues with the title or house survey were discovered after that, for example, the sale process could be dragged out for months – or years in some cases – or buyers could withdraw their offer and walk away. Now due diligence must be carried out before the contracts are exchanged, so buyer beware.

"Since PCIT's introduction, the solicitor's profession has universally adapted this new practice. Anecdotally, the period of time between contract signing and completion has decreased," said Walsh.

"An Ipv survey of 2020 (survey cohort 302) shows that more than 40 per cent of its respondent members perceive an improvement in the conveyancing process arising out of the PCIT system."

"Once contacts are signed, all that has to happen is for a capital gains tax clearance certificate to issue for (higher value transactions only) and for finance to be drawn down to enable 'completion' to take place. We are seeing closing periods reducing from an average of six weeks towards four weeks. This has the potential to narrow further depending on how quickly finance can be drawn down."

"One client of ByrneWallace recently asked us to examine the timeline to 'deal close', looking at close to a hundred deals over a period of years. We found that significant time was accounted for by delays in being furnished the title deeds by the client's lenders – on average between four and six weeks; longer in some cases," said Walsh.

"For the more complex transactions, we found that in some instances the heads of terms (HoTs) did not address the key transaction terms. Following on from this review when purchasing, this client now requires that the seller's signature to the HoTs is witnessed by his/her solicitor with a view to ensuring that the solicitor has, in fact, been engaged and that headline issues are flushed at the outset as far as possible."

#### Gatekeepers

"More and more, solicitors have become the gatekeepers for some public policy measures such as building energy rating (BER) certificates and for property tax collection," said Walsh.

"Delay in start-up, that is to say, in getting the required information from clients can delay the issue of draft contracts and title to the buyer. Most buyers' solicitors won't be instructed to commence work until a comprehensive title pack has been received."

Walsh recommends a handy vendor checklist on the Law Society website (lawsociety.ie/Public/Legal-guides/Property/selling-a-home) which has a concise checklist and additional weblinks to aid sellers.

"Buyers too should instruct their solicitors asap; ideally ahead of selecting a property," said Walsh. "They should appoint surveyors early on to carry out a physical survey of the boundaries and the buildings – most sellers will not agree a 'subject to survey' condition, so this

could delay the contract.

"Buyers should also have their finance ready to go and complex, higher-value transactions should ensure that Heads of Terms are addressed and settled. Buyers not having their ID and status certificates can also delay opening a file. In the same way that banks operate, solicitors must

comply with KYC/AML requirements to open a new file," said Walsh, who advised buyers to visit lawsociety.ie/Public/Legal-guides/Property/buying-a-home/ for more guidance.

#### Tech revolution

"Our paper-based conveyancing system

is not as efficient as an electronic conveyancing system could be," admitted Walsh. "Work towards e-conveyancing is ongoing and this will involve a massive investment by the government into the technological infrastructure and significant involvement of all relevant to page 2

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# BER has real potential to improve our energy credentials



**Pat Davitt** The Building Energy Rating, or BER, could be a really effective system if it is used as intended

The BER or Building Energy Rating system, now about 11 years old, measures the energy performance of a property. It's a legal requirement intended to aid prospective buyers and tenants but, due to a lack of implementation, it is not as effective as it could be. There are now, however, opportunities to turn it into a real deliverable from a climate change perspective, as well as offering greater value to property owners.

The SEAI (Sustainable Energy Authority of Ireland) is responsible for maintaining the National Register of BER assessments. It also accredits BER assessors. Compliance with the legislation is the responsibility of the relevant local authority.

The energy rating must appear on all property advertisements and brochures. Failure to comply can lead to the property owner, or their agent, being fined between €4,000 and €5,000, a prison sentence of up to three months, or both.

Despite the legislation, properties are frequently advertised for both rent and sale without BERs. This would appear to be seldom if ever investigated.

There are also many administrative hurdles to overcome, not least the delays that have arisen since the SEAI deemed the MPRN number used to access BER data to be sensitive information under GDPR.

Making the BER cert and accompanying advisory report (critical for the consumer to determine what needs to be addressed and if there is an added financial advantage in investing to get the most efficient 'A' rating) available online is sensible. It would also remove the requirement for consumers or their agents to write to the SEAI to get a BER cert where one has already been done.

We have allowed the BER certification legislation to become discredited. However, there are some relatively simple solutions to turn that around.

The Property Price Register (PPR) in Ireland



Ideally, we should immediately commission BER ratings for our entire stock of 2.2 million residential units and register them on the National BER Register

has been in operation since 2010. It registers the sale price of every residential property, without any GDPR concerns.

This sales information comes from the Revenue to the Property Services Regulatory Authority (PSRA) for the PPR to be populated. The Revenue has no interest in the BER rating, since it's not required for stamping a property. However, if it were allocated responsibility for imparting BER detail to the PPR, that would make a real difference.

We need to tighten up the procedures so that property owners or purchasers and tenants get maximum use from the BER process. Along with the Revenue taking on the role mentioned,

the SEAI must solve the GDPR hurdle and have the central register for all BER certs available to access online. It should also be allocated responsibility for compliance and have its own team of inspectors.

Such changes would massively improve the effectiveness of BER ratings. We would, in the first instance, know if the ratings have a material impact on property values. Secondly, it would most likely incentivise others to improve their ratings. Thirdly, as taxpayers, it's important to know our money is not being wasted.

From a government perspective, cutting emissions is a must. Our European partner TEGoVA (The European Groups of Valuers'

Associations) says it now looks likely that the fallout from the Covid-19 pandemic will boost EU regulation of, and funding for, the complete decarbonisation of the building stock by 2050 and 55 per cent decarbonisation by 2030.

This implies a step-change in renovation and connection to clean power, starting right away. Under EU law, each member state must submit to the Commission an Integrated National Energy and Climate Plan coupled with a Long-Term Renovation Strategy (LTRS) explaining overall, and in building stock specifically, how the country is going to reach EU targets.

Ireland is already late with these plans. Meanwhile, the European Commission's European Semester 2020 Ireland Report Country notes that the government announced a plan to retrofit 500,000 homes with increased energy efficiency and to install 600,000 heat pumps. But we don't know the detail of how, when, for which houses, and with whose money.

Ideally, we should immediately commission BER ratings for our entire stock of 2.2 million residential units and register them on the National BER Register. As an incentive we could allow home owners to claim the cost of their BER survey against property tax for 2021. This would give the government the full picture of exactly what measures are required. We would further know what buildings will be fully compliant by the 2030 deadline, only ten years away, and the 2050 deadline for decarbonisation.

Pat Davitt is chief executive of Ipav, the Institute of Professional Auctioneers & Valuers



Cnoc Clar in Kilquade, Co Wicklow: the four-bedroom house is for sale for €750,000

## Chic Wicklow home rises to the occasion

BY ROS DRINKWATER

Cnoc is Irish for hill, so Cnoc Clar is the perfect name for this stunning family home nestling among the trees on its elevated site overlooking half an acre of superbly thought-out landscaped grounds in Kilquade, Co Wicklow.

Throughout its 325 square metre interior, the ambience is one of cool, sophisticated chic – Debussy rather than Bizet comes to mind. The ground floor entrance hall has a seating space and a U-shaped staircase to the

upper floor.

The hallway leads to three interconnecting areas, a stylish living room with an imposing fireplace with a sandstone chimney-piece, the formal dining room, and the bespoke kitchen, which has marble countertops, a large island, mosaic splashbacks, a five-ring gas hob and a breakfast area big enough to seat eight. Adjoining the kitchen, the well-equipped, dual aspect utility room has marble counter tops and a door to the rear gardens.

Also on the ground floor are three double bedrooms, two en suite, one with a walk-in dressing room, all with built-

in wardrobes, a family bathroom with a jacuzzi bath, a guest WC and a storage closet.

Upstairs, the huge landing lounge is currently in use as the TV room with space for the whole family to watch in comfort. The first floor also houses an office, ideal for working from home, with its built-in desk and shelving. The luxurious dual aspect master bedroom has a dressing room and a WC. The attic provides additional storage space.

Entry is through electric gates to the long drive flanked by the large lawned front garden. The extensive rear garden has been innovatively laid out on three tiers.

From the kitchen on the ground floor level, doors open to the paved terrace, the perfect spot for al fresco dining, and a paved path cuts through a lawn leading to the conservatory. A flight of stone steps ascends to a spacious railed decked area and a second little staircase reaches the top level which has a shed and delivers nature's contribution in the shape of an eclectic collection of mature shrubs and trees.

Features include solar panels in the utility room roof providing hot water, security alarm, fibre broadband, oil-fired central heating (a new boiler was installed in 2019), the pretty lattice-style

windows are double glazed and BER is C1. There's also a detached garage and ample parking space for numerous cars in the tarmac driveway.

The green fingered will delight in the proximity of the National Garden Exhibition Centre, a stone's throw away. For outdoor pursuits, the Wicklow Mountains offer country walks, hill climbing and equestrian establishments and nearby Greystones has a host of attractions for families – two beaches, local rugby, GAA, soccer, tennis and bowling clubs, sailing and waters sports, the Shoreline swimming pool and the harbour/marina. Public transport includes Greystones Dart, Aircoach to Dublin Airport and numerous bus routes to Dublin city Centre.

Cnoc Clar is on the market with a guide price of €750,000. For more information contact Hooke & MacDonald at 01-6318402.



The living room with sandstone chimney-piece



The large landing lounge is currently in use as the TV room



The garden is laid out on three tiers

## Smart moves: how to speed up a property sale

from page 1 stakeholders." Robert Hoban, a former director and podium auctioneer at Allsop Ireland, which rebranded

as Bidxl, oversaw the transition of the auction house from a traditional to a wholly online auction business before co-founding his own

prop-tech start-up, Offr, the 'one-click property purchase' platform.

"A remarkable combination of better technology, changing buyer profile and the outbreak of Covid-19 has seen the landscape for buying and renting property change completely, and irreversibly," he told the Business Post.

"In 2012, global investment in prop-tech was \$1 billion. In 2018, it rocketed to \$8 billion. In 2019, this doubled to \$16 billion. Add Covid-19 to the mix, and this is only going one way.

"There has been a seismic shift in industry-wide scepticism to buying property online over the past ten to 12 weeks, and now instead, we're being asked about Offr's product and the cost, and there's an acceptance now that technology can be harnessed to the benefit of all parties – agent, buyer, seller, solicitor, landlord, tenant –

not to the exclusion of any," said Hoban.

### The smartphone factor

More than 90 per cent of Offr's 1,000 registered users have used their smartphone to book a viewing or place an offer. "People want information and they want it now, and that extends to the property sector too," said Hoban. "The advent of online bidding, whether by private treaty, or auction, is quickly reducing the gulf between the two distinct methods of sale."

Hoban's Offr platform has pioneered an online private treaty method, which allows conditional offers to be placed and accepted – normally online auction sales are immediately legally binding in nature. Lynda O'Neill, a solicitor at Eversheds Sutherland's Dublin office who specialises in real estate law, said there are a number of potential risks



Online buyers need to be careful and meticulous, especially with regard to special terms and conditions

and pitfalls that buyers need to be aware of before bidding for property, notably when buying online. "For many of us, online auction platforms is new territory and people can be a little trigger-happy, particularly when it comes to agreeing to terms and conditions," said O'Neill.

"A standard Law Society contract for sale, which contains standard conditions, is

commonly used when buying or selling property in Ireland. Conditions of the contract can be amended – usually in favour of a vendor – so an online buyer needs to be careful and meticulous, especially with regard to special conditions, which can relate to rights of way or easements, for example.

"Special conditions need to be blasted in red lights as

buyers – under the Law Society's amended conditions of sale in 2019 – are locked in once they click to purchase and have limited recourse if issues arise post-signing of contract," said O'Neill.

"I know someone who mistakenly clicked a button on an online auction platform and inadvertently bought a landlocked property," she said. "Clients in similar circumstances have approached us for advice on how to proceed, and it's tricky."

Different procedures apply to deposits (and refunds of same) in that, traditionally a deposit payment – usually about 10 per cent of the purchase price – is transferred from the buyer to their solicitor when contracts are signed.

It's then transferred to the vendor's solicitor who holds it in trust. If the purchase doesn't go ahead, the buyer may (subject to the terms of the contract) be entitled to a full refund of the deposit.

Not so in the case of an online purchase. Here, the de-

posit is required immediately to secure the property and a non-refundable condition may be included in the special conditions, so there's no guarantee of a refund if the sale falls through, which reiterates O'Neill's advice about reading the Ts and Cs thoroughly, or engaging a solicitor to do so.

According to O'Neill, data rooms, secure cloud-based rooms in which title deeds and all relevant documents are uploaded, are popular with high-value commercial transactions and are becoming more commonplace generally. They can be difficult to navigate, so her advice is to engage legal advice to ensure documents are reviewed thoroughly.

"Buyers who wish to purchase properties online should err on the side of caution," she said.

"Online auctions are fast and can have short completion times, but there is a comfort in taking a little more time to ensure that all documents have been executed correctly before closing."

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