

**Operation of the Strategic Housing Development process 2017-2019:
Report of the Review Group
September 2019**



Table of contents

	Page
Foreword	3
Executive Summary	5
Chapter 1 Introduction	6
Chapter 2 The SHD process	10
Chapter 3 SHD outcomes	14
Chapter 4 SHD issues	19
Chapter 5 Evaluation and main findings	27
Chapter 6 Recommended changes to the SHD process	33
Appendix A: List of those who made written submissions	44
Appendix B: List of stakeholder meetings	47

Acronyms used in the report:

ABP	An Bord Pleanála
CSO	Central Statistics Office
DHPLG	Department of Housing, Planning and Local Government
FI	Further Information request
IW	Irish Water
NPF	National Planning Framework 2018-2040
PA	Planning Authority
PCE	Pre-Connection Enquiry [Irish Water]
RSES	Regional Spatial and Economic Strategy
SDZ	Strategic Development Zone
SHD	Strategic Housing Development
SPPR	Specific Planning Policy Requirement [in Ministerial guidelines]

Foreword

Mr Terry Sheridan,
Principal Officer,
Planning Policy,
Department of Housing, Planning and Local Government.

Dear Mr Sheridan,

I have pleasure in presenting the report of the Strategic Housing Development (SHD) Review Group.

The SHD process was commenced in 2017 as one of the measures under the *Rebuilding Ireland* action plan to expedite the delivery of new housing. At the outset, the Group wishes to acknowledge that the entire planning system – An Bord Pleanála, Planning Authorities, statutory consultees (particularly Irish Water), housing developers and their professional advisers – has invested significant resources and effort in ensuring the success of the new process. As a result, we have identified elements of ‘best practice’ within the SHD process which may well have wider applicability with the normal section 34 planning application process.

We share the Department’s concern that, while the SHD process has undoubtedly resulted in faster planning decisions, the take-up rate of SHD permissions to date has been less than might reasonably have been expected, given the extent of public resources invested in the process since 2017. While we make a number of recommendations within the body of the report to increase the activation rate, it is important to state that factors outside the remit of the planning system also influence the delivery of new housing. These include the availability of housing finance, the ability of first-time buyers to afford mortgages, and capacity constraints within the overall construction sector.

That this report was completed within a relatively short timescale over the summer holiday period is due to the combined efforts of many people. In particular, I wish to thank:

- My colleagues on the Review Group, who willingly managed work and personal commitments to attend a busy schedule of meetings;
- The wide range of stakeholder representatives who agreed to meet us, often at short notice, and who presented valuable information on the working of the SHD process from a variety of perspectives;
- Board members and senior officials from An Bord Pleanála who not only held two lengthy meetings with us but who also provided detailed statistics on the Board’s operation of the process;
- Almost 200 individuals and groups who took the trouble to make written submissions in response to the public consultation process; and

- Conor O’Sullivan, Ciara Gallagher and Annette Nash, Planning Policy Section, who provided superb logistical support for our work, by managing the consultation process and by facilitating our meetings with stakeholders.

Yours sincerely,

John Martin,
Chair, SHD Review Group
20 September 2019.

Executive Summary

Legislation adopted in 2016/17 established a fast-track planning process for certain types of residential development (mainly schemes of 100+ units or 200+ student bed spaces) known as Strategic Housing Development (SHD), whereby planning applications are submitted directly to An Bord Pleanála (ABP) following an intensive pre-application consultation with the Planning Authority and ABP. The SHD provisions apply for an initial period, until the end of 2019. In accordance with the 2016 SHD legislation, the Minister for Housing, Planning and Local Government may, by order, extend that period by a further limited period of 2 years, up to the end of 2021, to coincide with the timeframe of *Rebuilding Ireland*. However, prior to the making of such an order, and not later than 30 October 2019, the legislation requires that the Minister review the operation and effectiveness of the SHD arrangements and lay before both Houses of the Oireachtas a report of his conclusions of the review.

The Minister appointed a Review Group to carry out this review and report to him by 25 September 2019. The Group held its first meeting on 1 July 2019. Its work consisted of three main strands:

- a) An analysis of detailed SHD statistics prepared by An Bord Pleanála;
- b) A series of meetings with stakeholders including An Bord Pleanála, planning authorities, statutory consultees, housing developers, and professional bodies; and
- c) An evaluation of submissions received by the Department on foot of the public consultation held in July 2019.

The SHD process has succeeded in achieving significantly faster planning decisions. All SHD decisions made by ABP up to the end of June 2019 were within the statutory 16-week time frame, with an average of 14.5 weeks. By that date, ABP had granted permission for a total of 12,339 housing units (houses and apartments) and 7,573 student bed spaces. These permissions, when implemented, will make a substantial contribution towards the achievement of the housing delivery targets set out in the Government's *Rebuilding Ireland* action plan.

Having regard to our main findings, we recommend that the extension of the SHD provisions until the end of 2021 is justified. However, the activation rate (i.e. the number of SHD permissions commenced) is less than 60%. In our view, this is less than might reasonably be expected, having regard to (a) the benefits of time saving and increased certainty for developers; and (b) the resources invested by the State in operating the SHD process. As the majority of SHD permissions are less than one year old, we consider that it would be premature to take measures to incentivise development at this stage. Instead, we propose that the Department should consider the continuation of its monitoring of SHD commencement notices for a further year before deciding whether such measures are required.

Notwithstanding the significant progress and positive outcomes achieved through the SHD process to date, our meetings with stakeholders and our review of the consultation submissions have identified a range of implementation issues (summarised in Chapter 4). Where appropriate, we have recommended measures to streamline and improve the process.

Chapter 1: Introduction

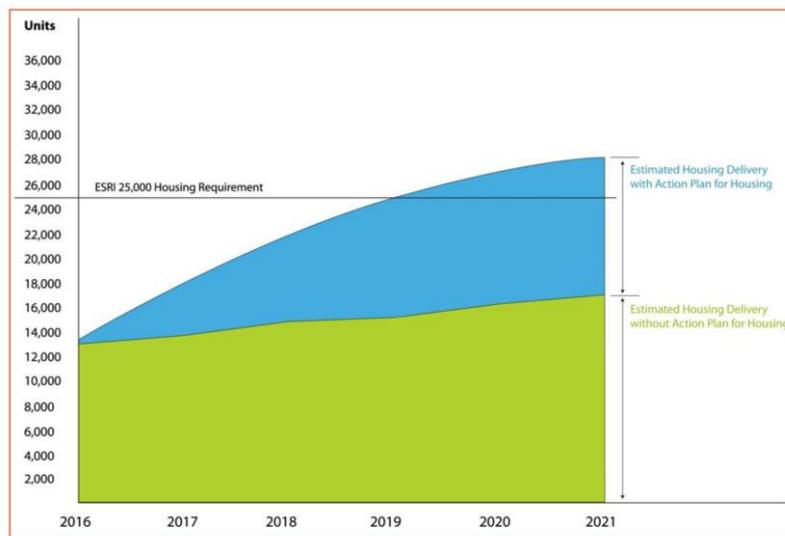
Policy context

The Strategic Housing Development (SHD) process was created in 2016 as a fast-track planning mechanism to facilitate the delivery of larger housing projects up to the end of 2021. While the process originated as part of the Government’s housing action plan *Rebuilding Ireland*, it also has to be seen in the longer-term context of the National Planning Framework, which set a target of providing over half a million new homes by 2040.

Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)

The 2016 SHD legislation was framed in the context of the exceptional circumstances of a housing shortage consequent on the low housing output levels of the years immediately previous to its enactment due to the severe economic downturn experienced by the nation. The then annual output of 12 – 13,000 homes was identified as a significant under-provision where an emerging homelessness crisis, combined with demographic analysis and projections, provided evidence that, at a minimum, a two-fold increase in output was urgently needed.

National policy providing a comprehensive package of initiatives to address this continuing shortfall of housing of all types, was framed and introduced as the “*Action Plan for Housing and Homelessness - Rebuilding Ireland*”. The overarching aim of the Action Plan was to ramp up the supply of housing across all sectors; it set ambitious targets to double the annual level of residential construction to 25,000 homes and to deliver 47,000 units of social housing in the period to 2021.



Rebuilding Ireland, Graph 8: Action Plan output objective

An analysis of the then existing process indicated that planning applications received, processed and decided by individual Planning Authorities (PA) were taking, on average 62.7 weeks. Appeals to An Bord Pleanála (ABP) against those decisions took on average 19.8

weeks. Combined PA and ABP average processing times thus amounted to almost 82 weeks (1 year and 7 months).¹

Rebuilding Ireland noted that the planning process has a major role to play in providing a clear path to meeting the housing needs of citizens and giving certainty for the providers of that housing; the Government intended that the process, building on recent enhancements, should become more responsive to the requirements and complexities around housing delivery. Accordingly, additional measures were proposed, including:

- enabling larger housing applications to be made directly to An Bord Pleanála, following the completion of necessary pre-planning consultations at local level; and
- ensuring that An Bord Pleanála prioritises the determination of all planning appeals related to large-scale housing applications within the 18-week statutory objective period.

Project Ireland 2040: the National Planning Framework

The National Planning Framework is intended to guide development and investment in Ireland over the next twenty years. To cater for projected population growth and a trend towards smaller household sizes, the Framework estimates that an additional 550,000 new homes will be required across Ireland by 2040, with 40% of those being located in cities and larger towns. While this target would require an average annual output of at least 25,000 new homes, increased output of between 30,000 and 35,000 housing units would be needed each year up to 2027, to deal with the deficit that has built up since 2010.

SHD legislation

The Planning and Development (Housing) and Residential Tenancies Act 2016 (Act of 2016) introduced new streamlined arrangements, for a limited time-period, to enable fast-track planning applications for strategic housing developments (SHDs) of 100 or more housing units, or student accommodation of 200 or more bed spaces, or shared accommodation developments of 200 or more bed spaces, to be made directly to An Bord Pleanála for determination.

The SHD provisions apply for an initial period, until the end of 2019. In accordance with the Act of 2016, the Minister for Housing, Planning and Local Government may, by order, extend that period by a further limited period of 2 years, up to the end of 2021, to coincide with the timeframe of *Rebuilding Ireland*. However, prior to the making of such an order, and not later than 30 October 2019, the legislation requires that the Minister review the operation and effectiveness of the SHD arrangements and lay before both Houses of the Oireachtas a report of his conclusions of the review.

1

<https://www.housing.gov.ie/planning/statistics/.../housing-statistics-planning-timelines-...>

SHD Review Group

In this regard, the Minister for Housing, Planning and Local Government Mr Eoghan Murphy T.D. has established a Review Group to review the operation and effectiveness of the SHD provisions and to report back to him by 25 September 2019. The membership of the group is as follows:

- John Martin, former Principal Planning Adviser, DHPLG (Chair)
- Liam Conneally, Director of Services, Clare County Council
- David O'Connor, former Chief Executive, Fingal County Council
- David Silke, Director of Research and Corporate Affairs, Housing Agency

The Terms of Reference of the Review Group are as follows:

1. The Group shall review the operation and effectiveness of the Strategic Housing Development (SHD) arrangements and shall advise the Department whether the Minister should extend the period for those arrangements up to the end of 2021, to coincide with the timeframe of *Rebuilding Ireland*.
2. In particular, the Group shall consider:
 - a) Learnings gained from the Group's practical oversight experience of the SHD arrangements; and
 - b) Evidence regarding the activation of SHD permissions post-determination by An Bord Pleanála, and whether the measure is achieving its desired objective of facilitating more rapid housing supply delivery at post-determination stage as intended.
3. In preparing its report, the Group shall:
 - a) Review background material on the SHD arrangements including the legislation, circular letters, etc.;
 - b) Review statistical information provided by An Bord Pleanála;
 - c) Arrange meetings with An Bord Pleanála and a representative sample of SHD stakeholders, to be selected by the Group; and
 - d) Assess the outcome of a public consultation to be organised by the Department in July 2019.
4. The Group may make such other relevant recommendations as it sees fit, including possible changes which could be made to further streamline and improve the effectiveness of the SHD process.
5. The Group shall submit its report not later than 25 September 2019 to Mr Terry Sheridan, Principal Officer, Planning Policy, Department of Housing, Planning and Local Government.

The Review Group met Minister Eoghan Murphy T.D. on 18 July to discuss our Terms of Reference.

Work programme

The Review Group held its first meeting on 1 July 2019. Its work consisted of three main strands:

- a) An analysis of detailed SHD statistics prepared by An Bord Pleanála;
- b) A series of meetings with stakeholders including An Bord Pleanála, planning authorities, statutory consultees, housing developers, and professional bodies; and

- c) An evaluation of submissions received by the Department on foot of the public consultation held in July 2019.

Notice was published on the Department's website and in four national newspapers on 8 July inviting submissions from all interested parties on the operation of the Strategic Housing Development process to date, with a closing date of 25 July for these submissions. Almost 200 submissions were received; such was the level of public interest that late submissions were accepted up to 2 August.²

The Review Group invited particular groups and individuals to meet it, to enable it to have as wide a perspective as possible of the experience of the operation of the SHD system. While it could not meet all interested parties, it used its best endeavours to be as inclusive as possible of all stakeholders in this new administrative system.³

Structure of the report

Chapter 2 outlines the statutory SHD process while chapter 3 describes the outcomes to date, with particular reference to the number of residential units permitted up to the end of June 2019. Chapter 4 sets out various policy and implementation issues identified by the Review Group arising from its work programme. The Group's overall evaluation of the SHD process and recommendations are set out in Chapter 5, while Chapter 6 proposes a range of measures and further recommendations to improve the effectiveness and efficiency of the current SHD process.

² A list of those who made submissions is set out in Appendix A. While some submissions raised concerns about specific SHD planning applications, the Review Group's remit is confined to the SHD process; the planning merits or otherwise of individual applications are solely a matter for An Bord Pleanála.

³ The list of stakeholder meetings is set out in Appendix B.

Chapter 2: The SHD Process

The SHD process was conceived as an accelerated administrative process whereby, through a clearly-defined series of time-bound stages, the process of deciding a planning application would be made for all housing developments of 100 units or more, and student accommodation of 200 units or more, within a shorter timeframe than heretofore had been the case. This system uses the body - An Bord Pleanála (ABP) - established to administer normal appeals against planning decisions by Planning Authorities (PAs) for this purpose.

The primary legislation⁴ enabling the SHD system was enacted on 23 February 2016 and the ancillary secondary legislation⁵ was signed by the Minister on 23 June 2017. The Department of Housing, Planning and Local Government has produced a simple introduction to the SHD system that explains how applications for housing developments in excess of 100 units and student accommodation proposals in excess of 200 bed-spaces are dealt with (see Fig. 1 at end of this chapter).

During 2017, ABP established a dedicated Strategic Housing Development Unit and a new division of the Board (as required under legislation) was established to decide on SHD applications. The SHD Division is chaired by Mr Paul Hyde and has 3 ordinary Board members. In 2018 there were a number of internal and external competitions to fill vacancies at Planning Inspector, Senior Executive Officer and Administrative Assistant grades to staff the new Strategic Housing Unit. At present, the SHD Unit has 15 planners and 6 administrative staff.

ABP has published guidance documents on its website (www.pleanala.ie) for applicants, PAs and the general public about the SHD process, and it has participated in a number of professional development seminars for planners in both the public and private sectors. The website also lists details of decided SHD cases, including the Inspector's report, the Board direction, and the order granting or refusing permission.

2.1 The Planning Context:

2.1.1 The introduction of this new administrative system was followed in February 2018 by the publication and adoption of the *National Planning Framework* (NPF) that sets the broad context within which the nation will administer its development up to 2040. The NPF thereby became the foundation upon which national development goals and strategies are expressed. The NPF – necessarily national in scope - cascades into three separate Regional Spatial Economic Strategies (RSES) establishing the adoption of the principles of the parent NPF for those places, thereafter being incorporated into County/City Development Plans – including Metropolitan Area Strategic Plans for urban areas.

2.1.2 Progress at the time of writing is that one of the three RSESs has been adopted (Eastern & Midland) and two are awaiting approval by the Regional Assemblies.

⁴ Planning and Development (Housing) and Residential Tenancies Act 2016 (*Number 17 of 2016*)

⁵ S.I. No. 271/2017 – Planning and Development (Strategic Housing Development) Regulations 2017

The necessary Development Plan revision process has commenced but, at the time of writing, no revised plans have been so adopted. This has meant that, for the meantime, some Regional and all local Plans are not fully coordinated with the NPF.

- 2.1.3** Notwithstanding this, APB, in exercising its role as set out in the SHD administrative system, is bound in its decision-making by the adopted policy of government and published guides, protocols and constraints as they impact on development. While ABP will take into account locally relevant Plans adopted by PAs, it has discretion to overrule these. In cases where these Plans are in conflict with national or regional plans, it is obliged to so overrule.

2.2 The SHD process – a changed administrative system:

- 2.2.1** The primary aim of the SHD process is to accelerate housing delivery by introducing change to reduce processing time. This is primarily achieved by requiring applicants to provide as thoroughly comprehensive description of development as possible including their active liaison with the PA. This is further refined by the introduction of a pre-application gateway so as to filter out unprepared or potentially non-conforming proposals before they become applications.

2.2.2 Pre-application Stage

- 2.2.2.1** PAs have consistently reported that informal engagement, lasting any time between 4 and 9 months, is a feature of all SHD Applications that successfully achieve positive Opinions from the ABP Inspector dealing with this stage.
- 2.2.2.2** A section 247 consultation commences with a request to the PA for a meeting by the prospective SHD applicant. The PA must meet with applicants within 4 weeks of that request after which the applicant may apply to APB with accompanying prescribed descriptive documentation. ABP must then accept, or refuse to assess, such plans within 2 weeks of the request.
- 2.2.2.3** The resulting tripartite (applicant, PA & ABP) meeting must involve all associated housing and infrastructure service providers of the Local Authority under its remit. As part of this process the applicant must provide a statement that outlines how the proposal is consistent - a 'Statement of Consistency' - with relevant objectives of any relevant statutory Plans for the area – listing all of these.
- 2.2.2.4** ABP has 3 weeks within which to issue an 'Opinion' stating whether the proposal constitutes a reasonable basis for an application or stating the issues that it considers need to be amended in order for the proposal to constitute a reasonable basis for an application.
Following receipt of an Opinion, the applicant may request ABP to:

- carry out a screening process to establish the extent to which environmental impact reports are required to accompany any such application; and
 - to set out the type of information it requires to be provided so that it is adequately informed of the extent and intention of the proposal as a whole.
- 2.2.2.5** ABP operates a system of administration whereby any Inspector who deals with the issuing of the Opinion at pre-application stage will not assess and report on that application.
- 2.2.2.6** **Irish Water (IW)** must be consulted by all applicants, and allows a 16-week period for Pre-connection Enquiries to be dealt with. A *Confirmation of Feasibility* is required at **Pre-application** stage and thereafter at **Application stage** a *Statement of Design Acceptance* from IW must be provided, otherwise applications may be invalidated by ABP.

2.2.3 Application Stage

- 2.2.3.1** An SHD application requires:
- A comprehensive description of the full extent of the development proposal in the normal way;
 - newspaper and site notices in the normal way;
 - the provision of a website, dedicated solely to the proposal; and
 - payment of the statutory fee⁶.
- 2.2.3.2** The public consultation period whereby 3rd party entities have the opportunity to submit their observations commences, lasting for 5 weeks, from the date of receipt of the application by ABP; observations from third parties may be submitted within that period to ABP on payment of the €20 fee.
- 2.2.3.3** Applications must be in hard copy but copies in digital form must also be provided. A default to hard copy, for the purpose of decision-making, exists in the absence of any statement on the status of digital format submissions in the Regulations.
- 2.2.3.4** Copies of the application (in hard copy) must be provided to the list of Prescribed Bodies as specified by ABP.
- 2.2.3.5** ABP has discretion to hold an Oral Hearing if requested but this adds a further 8 weeks to the period for deciding the application.
- 2.2.3.6** As part of the application the PA is required to provide within an 8-week period following registration of the application by ABP:
- A report on the considerations of their elected Councils on foot of a presentation summarising the application;
 - A planning report compiled in the normal way to include all aspects, including an opinion on the 3rd party observations received by ABP;

⁶Article 305 of the Planning and Development (Strategic Housing Development) Regulations 2017 (S.I. No. 271/2017) provides for a refund of 50% of SHD application fees to the relevant Planning Authority.

- A report of the Chief Executive on the proposal, including a recommendation to grant or refuse.
- 2.2.3.7** Under the SHD process there is no provision for requests for Further Information or any other correspondence between ABP, the applicant or any 3rd party during the application stage. ABP operates a system whereby the Inspector’s report is assembled exclusively “within the four walls” of the application and all the accompanying information submitted, including the 3rd party submissions.
- 2.2.3.8** ABP is required to issue a grant (in whole or part) or refusal of planning permission within 16 weeks of receiving the application; failure to meet this deadline imposes a financial penalty on the Board. The decision to grant or refuse permission, as always, is made by the Board on receipt of the report of the Inspector assigned to the case.

2.3 The SHD System and Housing Delivery

2.3.1 Measuring results

The next Chapter provides analysis of the quantum of applications dealt with as part of the SHD process on a stage-by-stage basis, including the quantum of permissions granted that have proceeded to Commencement Notice stage. It also includes a comparative analysis of the pre- and post-SHD timelines for processing of housing applications.

Fig. 1:



Chapter 3: Outcomes of the SHD process

3.0 Introduction

The Group is mandated to review the operation and effectiveness of the Strategic Housing Development (SHD) process having regard, *inter alia*, to statistical information provided by An Bord Pleanála (the Board). This chapter analyses such information covering the period from the introduction of the process in 2017 to the end of June 2019. A brief update on SHD cases decided or being processed in July and August 2019 is provided at the end of the chapter.

3.1 Requests for SHD pre-application consultations

As outlined in the previous chapter, following an initial informal consultation with the relevant planning authority, a prospective SHD applicant must request a formal consultation with the Board prior to submitting an application; the request must be accompanied by plans and details specified in the legislation. This consultation process takes 9 weeks and culminates in the issuing by the Board of an 'Opinion' as to whether the documents provided constitute a reasonable basis for an application to be submitted, or whether they should be amended.

Table 3.1 Number of valid requests received

Q3-Q4 2017	Q1-Q4 2018	Q1-Q2 2019	Total
36	97	75	208

All Opinions were issued by the Board within the statutory 9-week period.

3.2 Number of SHD applications submitted

About three quarters of all pre-application consultations result in the submission of an SHD application to the Board. The first application was received in September 2017, rising to a total of 100 by the end of June 2019:

Table 3.2 Total number of valid SHD applications

Q3-Q4 2017	Q1-Q4 2018	Q1-Q2 2019	Total
13	39	48	100

It will be seen that the number of applications is rising sharply; more applications were received in the first half of this year than in the whole of 2018.

3.3 SHD decisions

The Board decided 70 SHD cases up to end Q2 2019, of which 50 (71%) were granted and 20 (29%) were refused.

The first permission was granted in January 2018. Since then, the quantum of permitted Strategic Housing Development is as follows:

Table 3.3 Amount of permitted SHD development 2018 – Q2 2019

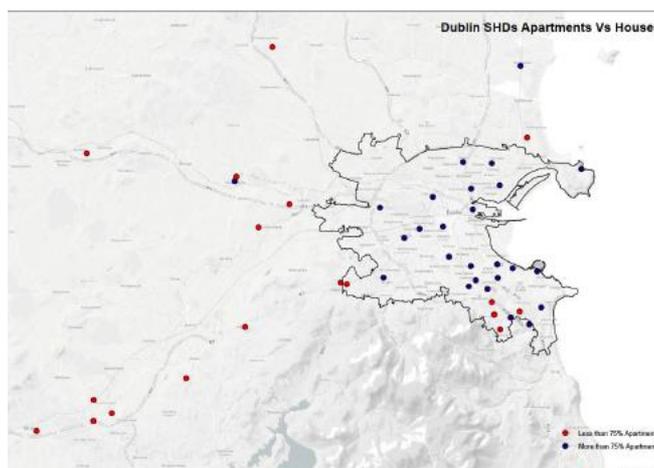
Strategic Housing Developments - Applications			
	Permissions Granted	Housing Units	Student Bed-Spaces
2018	27	7,102	4,479
Quarter 1 2019	6	1,685	289
Quarter 2 2019	17	3,552	2,805
Total	50	12,339	7,573

The composition of the ‘housing units’ was as follows:

Table 3.4 Types of housing units permitted to Q2 2019

	Houses	Apartments	Build-to-rent	Totals
2018	3,284	3,818		7,102
Q1-Q2 2019	1,870	2,953	414	5,237
Totals	5,154	6,771	414	12,339

Apartments accounted for 87% of all units permitted in Dublin City and suburbs, 50% in Cork and about 35% in Galway and Waterford.



Of the 31 applications decided (including refusals) in the first half of 2019, 16 were in Dublin, 2 in Meath, 2 in Louth, 3 in Kildare, 4 in Cork and 1 each in Counties Wicklow, Wexford, Waterford and Galway.

3.4 Applications refused

The most common reason for refusal related to residential design, such as inadequate density, poor mix of house types, sub-standard urban design and layout, or adverse impacts on adjoining properties. Failure to comply with Ministerial guidelines and design manuals was cited in several cases. The second most common reason related to infrastructural deficiencies, such as lack of wastewater or surface water capacity, or inadequate road access.

3.5 Judicial review cases

Four judicial reviews were sought in respect of the Board's decision to grant permission for SHD schemes. In two of these cases – at Bearnna, Co, Galway and Raheny, Co, Dublin – the High Court quashed the Board's original decision; the Board is appealing against the Bearnna judgment. A further permission (at Blackrock, Co. Dublin) was quashed in July 2019, and the fourth case has yet to be determined in the courts.

3.6 Time taken to decide SHD applications

The primary objective of the SHD legislation is to facilitate speedier planning decisions for projects which qualify as SHD, in order to facilitate the more rapid delivery of housing supply. To assess whether this has been achieved to date, it is necessary to compare the timelines for both SHD applications and applications for larger housing projects which previously would have been submitted under section 34 of the Planning and Development Act 2000 (as amended).

The Department of Housing, Planning and Local Government carried out an assessment in 2016 of the timelines for making a decision on planning applications for 100+ housing units, based on a sample of 15 such applications:

Table 3.5 Average time taken to decide major housing applications in 2016 (pre-SHD)

Stage	Time taken
1) From consultation to submission of application	34 weeks
2) From submission to Planning Authority (PA) decision	29 weeks*
3) Appeal period	19 weeks
Total	82 weeks

* As a PA is required to make a decision within 8 weeks, this implies that in virtually all cases the PA requested further information, and that the time taken to submit such information averaged 17 weeks (allowing 4 weeks for the further information to be assessed).

To date, all 70 SHD cases decided by the Board up to the end of June 2019 have been finalised within the statutory 16-week period, with an average of 14.5 weeks. A sample of 14 decided SHD cases (20% of the total) showed that the average time between conclusion of the formal pre-application consultation and the submission of an SHD application was 17.4 weeks. The total average time from SHD pre-application consultation to decision is thus just under 32 weeks.

It is clear that the process has achieved very significant time savings for SHD applicants, and much greater certainty about timelines, particularly as there is no facility for requesting further information once the application is lodged. However, this characteristic of the SHD process means that prospective applicants are likely to have progressed the design of their projects in much greater detail by the pre-application stage compared with consultations with a Planning Authority prior to a section 34 planning application. For example, Dublin City Council has told the Review Group that informal consultations with prospective SHD applicants often take place over a period of at least 6 months prior to the formal request to the Board for a consultation.

3.7 Comparison between SHD decisions and Planning Authority recommendations

Under the 2016 SHD legislation, each Planning Authority (PA) is required to submit a report to the Board from its Chief Executive, including a recommendation as to whether permission should be granted or not.

Out of the 70 decisions made by the Board up to Q2 2019, 56 (80% of the total) were the same as the PA recommendation. In 9 cases (13%), the Board refused permission where the PA had recommended a grant, although in one case the PA had expressed serious concerns. In 5 cases (7%), the Board granted permission where the PA had recommended refusal.

Seven cases (10%) represented a material contravention of the relevant development plan or local area plan; of these, two were refused by the Board, and the permissions for the other 5 developments were supported in principle by the relevant PA. As the Board can only grant permission if the site is zoned for residential development, the contraventions related to specific policy objectives, such as the phasing of development.

3.8 Implementation of permitted SHD schemes

The Review Group is required to consider 'evidence regarding the activation of SHD permissions post-determination by An Bord Pleanála, and whether the measure is achieving its desired objective of facilitating more rapid housing supply delivery at post-determination stage as intended.'

Of the 50 SHD schemes that have been granted permission, 18 have commenced or partially commenced. Four of these have only commenced enabling or demolition works, leaving 14 with actual dwelling construction taking place.

Where there are mixed developments (houses, apartments and/or student accommodation) it is often unclear from the commencement notice which type of dwelling has been commenced, and so a breakdown is not available. Where the commencement notice does specify, this information is provided below:

Table 3.6 SHD schemes where construction has commenced (July 2019)

Confirmed houses commenced	429
Confirmed apartments commenced	495
Total residential commenced (including where not specified)	1036
Confirmed student bed-space commenced	1717
Total commenced (including where not specified)	3069

(Note: the first four figures above do not add up to the final figure as some dwellings commenced cannot be differentiated and are therefore only included in the total figure.)

3.9 SHD update, July/August 2019

As noted at para. 3.0 above, we based our analysis on statistics provided by An Bord Pleanála for the period ending 30 June 2019. The following statistics provide an update for the months of July and August 2019.

3.9.1 Pre-application Consultations:

22 requests for pre-application consultations were received by the Board, comprising 6,839 residential units and 405 student bed spaces. The residential units can be broken down further into 1,180 houses and 5,659 apartments (of which 1,561 were identified as build-to-rent).

34 Opinions were issued; these related to a total of 10,525 residential units (3,931 houses and 6,599 apartments), and 709 bed spaces.

The spread across the country is improving or increasing somewhat, with Limerick and Galway showing increased activity and Kilkenny, Tipperary and Laois with their first SHDs.

3.9.2 SHD Applications:

18 applications were received, comprising 6588 residential units and 317 student bed spaces. The residential units comprise 1,719 houses and 4,869 apartments (of which 1,293 were identified as build to rent).

22 applications were decided, comprising 6,174 residential units, of which 1,592 were 'build to rent'. No applications for student bed spaces were decided during July-August. Of the 22 cases decided, 4 were refused and 1 withdrawn. The Board granted 17 cases, comprising 3,833 residential units (494 houses and 3,339 apartments).

During 2019 (up to the end of August) 66 applications have been lodged and 97 pre-application consultation requests. All application cases are being dealt within the mandatory timeframe (i.e. within 16 weeks) and pre-apps are being dealt with within the stipulated targets for pre-apps (i.e. 9 weeks).

3.9.3 'Pipeline' of SHD proposals:

It should also be noted that there is a considerable volume of SHD proposals at section 247 pre-application consultation stage with Planning Authorities:

- Cork City Council: 22
- Dublin City Council: 47
- Dun Laoghaire-Rathdown Co. Council: 36
- Fingal Co. Council: 29
- Kildare Co. Council: 13
- Meath Co. Council: 26 (+ 23 'exploratory' meetings).

Not all of these prospective schemes will progress to tripartite meetings or SHD applications, but as an indication of their cumulative scale they would amount to over 35,000 residential units and 1,400 student bed spaces.

Chapter 4

Policy and implementation issues highlighted during consultation

This Chapter is a summary of the issues raised in submissions and at interviews held as part of the process of inquiry, both being used to assemble as comprehensive a picture as possible of the operation of the Strategic Housing Development system since it was introduced. These issues are assessed, and recommendations are made where considered appropriate in Chapters 5 and 6.

4.1 Submissions on the principle of the introduction of the Strategic Housing Development process:

The following is a summary of submissions received and does not necessarily reflect the views of the Review Group.

4.1.1 SHD system as the solution to accelerate Housing Delivery

4.1.1.1 Extend SHD, as the new system is working

Submissions were received stating that the extension is required as the system is working well, achieving consistency in approach, providing definite and improved timelines for decisions, with greater certainty and positive open engagement in structured ways. Some procedural improvements are still necessary. Consider making SHD a permanent feature for housing developments in the future.

4.1.1.2 Cease SHD, neither necessary nor justified

Submissions were received stating that the SHD process is not working, that it is being used solely to increase land values, that it undermines the role of local planning, is excessively expensive to operate, and does not result in increased home building. There are other reasons, not planning-related, that are impeding housing delivery; as such, any extension is not justified.

4.1.2 3rd party rights under SHD

Chapter 2 (paras 2.2.3.2 and 2.2.3.7) identifies the stages where 3rd party observations are dealt with in the SHD process. Opportunities for 3rd party observations occur within the 5-week period following receipt of the application by the Board. These observations will form part of the planning file and are considered by the PA in its planning report on the application (Chapter 2, para 2.2.3.6).

4.1.2.1 No opportunities for 3rd party participation beyond initial submission.

The SHD system does not provide for any discussions, submissions or clarifications by way of further information to be requested of the applicant by APB once the application is lodged. The ABP decision will be made solely on the application as submitted – the substance of the application cannot be changed. Therefore, there is no requirement for a provision for 3rd parties who have made observations to be copied with or to make submissions beyond the initial application submission stage.

The 5-week period within which 3rd parties have to assimilate the proposal and compile observations, without any prior notice of the proposal, is inadequate and compares poorly with the opportunity afforded under the normal planning process, which also includes an appeal stage.

4.1.2.2 Online evidence of 3rd party submissions

As it is not possible to make, or pay the fee for, an online submission (as is the case with applications to a PA), combined with the absence of any means whereby 3rd party submissions can be seen online, there is a perception of a lack of consideration of these observations by ABP. This perception is reinforced by the fact that the application upon which the permission is granted remains online for just 8 weeks (solely on the website required to be provided by the applicant) following the decision date. Submissions attest to the consequent lack of opportunity for public oversight of compliance, so as to aid PAs in their enforcement role and in overseeing the interests of those most likely to be impacted by such development in the immediate context, and that this ultimately is not in the public interest.

4.1.3 The role of Planning Authorities, including elected members, in the SHD system

The role of the PA under the SHD system is set out in detail in Chapter 2. The PA role remains critical throughout the pre-application and application stages, and comprises more extensive administrative processes and more deadlines than apply with normal planning applications.

4.1.3.1 Implications of the administration of SHD for PAs

The significant resource implications of the SHD system are dealt with in 4.3 below. Examples of several pre-section 247 meetings have been provided by both PAs and prospective applicants, taking up to 6 months in advance of any request for a tripartite consultation (applicant, PA and ABP). This active engagement, firstly between applicant and PA and subsequently in tripartite meetings, can be extensive. The liaison that is a necessary part of SHD administration between ABP and PAs has been welcomed by both parties. The 8-week period following application, within which PAs are required to submit the Chief Executive's report on the application, is repeatedly stated to be too short to allow for comprehensive consideration (see Chapter 2, para. 2.2.3.6). This has been reported as being compounded by administrative delays in informing PAs of receipt of applications, etc., which can shorten this time still further. An extension to this 8-week period is requested.

4.1.3.2 Role of Elected Members

The requirement for Planning Authorities to summarise, present and report on the consideration of SHD applications to their elected Councils gives a specific formal role to the elected members that must be achieved within the 8-week period following receipt of the application. Submissions received have detailed how copies of 3rd party submissions

from ABP cannot be reviewed online and are not received until week 6; this can be too late for Members to reflect the views of their constituents as they assemble their own submissions. This also complicates meeting administration having regard, for example, to Municipal District meeting schedules.

4.1.3.3 Erosion of the role of Councils in determining local planning priorities

Submissions characterise the actions taken by ABP in its application of SHD systems, through decisions taken that override provisions of Development Plans, Local Area Plans etc., as ignoring and overriding plans made locally by the elected Council – a diminution of their role⁷ In addition, PAs offer the opinion that, as decisions taken in relation to SHD applications are confined solely to those sites, this erodes the powers and influence of the PA in development management where it can and does exercise judgement in the general context of the area, not only on single site proposals. This is said to diminish the value of local development management and is regarded as a singularly unwelcome aspect of the SHD system. The advantage of the principle of sequential development was also stated to be undermined by SHD decisions taken in isolation.

4.1.4 SHD in the context of Strategic Development Zones (SDZs)

4.1.4.1 SHD/SDZ clarification Issues

Submissions received variously requested clarification of the issue of, and/or a prohibition of, SHDs in SDZ areas. Those requesting prohibition submit that as all applications within SDZs must be compliant with the Planning Scheme, there is certainty about the extent of development for applicant and 3rd parties alike. The overall SDZ ‘planning envelope’ having been subject to full public consultation must require that any and all amendments outside the approved SDZ Scheme require due process (as laid down in the Planning Acts). This will be undermined where an SHD application is approved without regard to the Planning Scheme.

4.2 SHD implementation issues:

There are several areas where concerns have been raised in relation to the working of the SHD process as follows:

4.2.1 Status of Local Plans (Development Plans, Local Area Plans etc.) in framing the ‘Statement of Consistency’ by applicants.

The SHD process has been characterised as one that overrides plans adopted by Local Authorities, effectively ‘overriding the role of local Councils’. This characterisation is due in large part to the coincidence of the timing of introduction of the SHD system during the period within which the National Planning Framework (NPF) has been adopted as national policy and is being

⁷ Such decisions can arise from conflict between local and national policy where ABP has a specific duty to see to the implementation of national policy where there is a conflict between that and the provisions of local plans. This is specifically addressed in Chapter 2, para 2.1, ‘The Planning Context’.

implemented through Regional Spatial and Economic Strategies as detailed in Chapter 2, para 1 'The Planning Context'. The ongoing process of the assimilation of the NPF is described in Chapter 2. Inconsistencies between local and national / regional plans are likely to continue for some time, pending the review of development plans and LAPs.

4.2.2 Housing standards related to planning

A number of submissions received were related to standards for housing – layout, density and house-types – typically highlighting the development implications arising from requirements for increased density. The application of higher density requirements in specific locations was repeatedly represented as detrimental to existing places and impacting negatively on communities. The perceived lack of transparency that these submissions associate with the SHD system – owing to the different provisions for 3rd party submissions – served to compound these concerns.

The issue of “viability”, being primarily related to affordability, was raised in this connection. Analysis presented by the Society of Chartered Surveyors Ireland stated that build-cost comparison between traditional house building and apartment construction (multiple occupancy implying entirely different construction in compliance with fire regulation, for example) was of a ratio of 1:1.5 (€120: €180 per sq. ft.). This does not include the higher finance cost for apartments (e.g. cashflow begins following construction of show-houses whereas an entire apartment block must be finished before first deposits are secured).

Submissions raised the point that ABP have required minimum density levels of 35 units per hectare, and in practice this was represented as a requirement to include apartments. Several submissions reported that apartments are not currently considered viable in many suburban sites, particularly outside Dublin.

This viewpoint was supported by others who argued that too many apartments and student accommodation were being built in some areas, when what they felt was needed was traditional family homes. A review of the approach was suggested which would include taking account of the demographic profile and market demands of certain locations, specific site constraints such as topology topographical or environmental issues and the density of existing.

Both the Construction Industry Federation / Irish Home Builders Association and Property Industry Ireland in their submissions, offered that higher density requirements are capable of being delivered through more flexible approaches to individual site space-standard requirements, house-type mix and design and housing layout that promote innovative solutions should be employed. It was suggested that examples provided by way of appropriate

guidelines would be helpful in promoting awareness of and confidence for those proposing and those assessing alternative models in this regard.

4.2.3 Pre-application consultations:

4.2.3.1 Lack of clarity about appropriate level of design detail.

The introduction of a requirement for a 'Design Statement' has been welcomed as an important marker of improved consideration of design standard in proposed developments. Engagement with the design professions on the format and extent of such matters is welcomed in order to introduce consistency in the presentation of proposals.

4.2.2.2 Irish Water (IW) response times and engagement.

There have been submissions in relation to coordination between IW, the PAs and ABP to afford improved communication about development proposals at an early stage as possible. Delays in engagement with IW have also been reported. There is a further concern about the level of detail design required at early-proposal stage where service or assimilative / upgrade capacity etc. of existing infrastructure may be the most important issue.

4.2.4 SHD application process:

4.2.4.1 SHD and non-residential uses

ABP is solely permitted to consider SHD applications made in areas zoned residential by PAs. There is a maximum allowance of 15% or 4,500 sq. m. for non-residential uses in development proposals. Submissions outline their concern about this restriction, explaining how it militates against integration of residential development into urban contexts. In particular, it may prejudice sustainable urban development, especially in designated redevelopment areas.

4.2.3.2 Additional Information requests – the absence of same in the SHD process.

This is outlined in Chapter 2 para 2.2.3.7 and was raised by almost all planning-discipline parties interviewed. These were conscious of the impact of introduction of further information requests on statutory deadlines, but were less emphatic on the need for revision than the views of 3rd party observers. It was also submitted that any weakening of the discipline necessary to furnish a complete application at pre-application and application stages has the potential to result in lower quality submissions and subsequent development standards. The issue of 'Technical Clarifications' was also raised in submissions urging the introduction of provisions to allow ABP to seek additional information, strictly where technical uncertainties could be clarified; time-limits and other means whereby the efficiency of the process would be retained were suggested.

4.2.3.3 Suggestions concerning **ABP Opinion** issued at conclusion of pre-application stage

Several submissions concern issues related to this process, including:

- That the Opinion be expressed in unambiguous terms so as to aid preparation of the application, or its abandonment as proposed; and
- Matters requiring further clarification following from the tripartite meeting could be referred to the applicant, allowing for a second tripartite meeting if judged necessary prior to arrival at the Opinion - though it was unclear as to what circumstances would require this meeting.

4.2.3.4 Capacity to deal with **minor design changes** under the SHD system.

There was acknowledgement that, due to the complexity of large-scale housing development with its likely phasing and due to the long-time taken for completion, it is inevitable that changes will likely be required as the project progresses.

The use of section 146(b) – a process developed for Strategic Infrastructure Developments – is the sole available route to resolution of matters that involve change to the permission that may or may not be material. This was stated to be a cumbersome, expensive and lengthy process not amenable in the SHD context. There is a considered preference by all parties, including ABP and PAs, that this be simplified; one planning body should have discretion to decide whether changes should be categorised material (thus requiring a new planning application) or not. This change would be likely to achieve savings in time and expense, adding to improved housing delivery.

4.2.3.5 **Compliance conditions issues**

In relation to compliance conditions there was a strong request for the imposition of statutory deadlines on PAs, with a default to approval in the event of failure of PAs to confirm within such deadlines. It was felt that this would accelerate housing delivery as examples of long timelines for confirmation were provided.

4.2.3.6 **Irish Water (IW) input into SHD process**

IW is cited as requiring a very significant level of design development prior to their being satisfied to give the pre- or application stage sign-off sufficient to avoid invalidation by ABP (see Chapter 2, para 2.2.2.6).

While there is no minimum time within which IW must provide its input, it has set itself a target of 4 months (16) weeks in this regard.

4.2.3.7 **Paper / digital submissions**

Submissions from applicants, ABP, PAs, and Prescribed Statutory Consultees all raised practical issues (volume / bulk of material) and issues related to the relative status of hard (paper) copies v. digital versions of material required at application stage. The facility afforded by digital publication, circulation and especially updating, whereby all parties may be notified of changes, is not available in such a context. In the absence of specific legal preference, the current default is for hard copy.

4.2.3.8 Transparency of SHD on ABP website

Submissions and meetings highlighted deficiencies with the ABP website in this SHD context as follows:

- The absence of SHD-specific sorted applications results in the need for detailed search – frequently by word – to access groups of or individual SHD application files;
- ABP website provides no access to the approved permission other than the Inspector’s Report, the Order (planning decision) and the Direction of the Board. There were repeated submissions regarding the absence of the record of the tripartite meeting, the Opinion issued at pre-application stage, 3rd party submissions, and the Chief Executive’s report, contrasting this with the quantum of material available under the normal planning appeal process.
- The requirement for a development-specific website to facilitate access at application stage is welcomed by some submissions but they state that there is no template for the website format, website naming or content. The applicant’s website is only required to be online for 8 weeks following the planning decision, following which the file may be unavailable. Submissions do not favour the website being hosted by the developer but have a strong preference for hosting by ABP;
- ABP website provides no access to the file contents (plans, elevations, etc.) With normal appeals such access is afforded through links to the PA online planning files. In the case of SHDs the file is held by ABP. There is no PA link available for file access.

4.3 Resource Issues

4.3.1 PA staff resources / need for SHD skills training

This has been consistently raised at meetings with PAs and by the Irish Planning Institute and other submissions. PAs testified as to the almost doubling of resource requirement in time and personnel due to the heavy time-bound processes involved. PAs have submitted that the extent to which informal meetings (in advance of the initiation section 247 pre-application meetings) is understated; examples of several such meetings, extending over periods ranging from 4 to 8 months, have been provided by applicants and PAs.

Positive engagement between ABP and PAs has been attested to with newly established regular liaison at high-level welcomed.

Submissions have highlighted a particular resource constraint in relation to the availability of specialist advisory services for some PAs, such as archaeology, heritage, ecology, specialist engineering services. Solutions such as the development of specialist resourcing on a regional basis were suggested.

4.3.2 ABP staff resources / impact on other ABP casework

The experience whereby the original anticipated complement of staff assigned to the SHD specialist unit had to be doubled within the first 12 months was outlined. In addition, there is evidence of increased workload from the accumulating requests for SHD pre-application consultations (see Chapter 3). There is a danger that the time limit for consideration of current applications may be exceeded. Options include additional staffing or a more flexible use of staff through the abandonment of the practices of the use of separate Inspectors for pre- and post-application stages. The exponentially-growing quantum of SHD-related activity is being actively managed but is placing severe demands on the SHD unit and on non-SHD staff that can be drawn into work so as to meet SHD deadlines.

Chapter 5: Evaluation of the operation of the SHD process

5.0 Introduction

This chapter sets out our overall findings on the operation of the SHD process since 2017, together with our recommendation as to whether that process should be extended by the Minister until the end of 2021. The next chapter outlines what improvements might be made to the SHD process if it is to be continued.

5.1 Main findings

Having assessed almost 200 written submissions, met a wide variety of stakeholders, and reviewed detailed statistical material provided by An Bord Pleanála (the Board) and by Planning Authorities, our main findings regarding the operation of the SHD process are:

1. The process has succeeded in achieving significantly faster planning decisions. All SHD decisions made by the Board up to the end of June 2019 were within the statutory 16-week time limit, with an average of 14.5 weeks. This may be compared to an average of 82 weeks based on a sample of 15 ‘normal’ (section 34) planning applications for 100+ housing units carried out by the Department of Housing, Planning and Local Government in 2016. It is acknowledged that it normally takes several months of pre-application consultations with the local Planning Authority and the Board before an SHD application is ready to be submitted (see also para. 5, below).
2. As shown in Chapter 3, by end Q2 2019 the Board had granted permission for a total of 12,339 housing units (houses and apartments) and 7,573 student bed spaces. These permissions, when implemented, will make a substantial contribution towards the achievement of the housing delivery targets set out in the Government’s *Rebuilding Ireland* action plan.
3. The process got off to a relatively slow start in 2017–18, but the numbers of both SHD pre-application consultations and planning applications have increased significantly in 2019, as the development sector became accustomed to operating the new procedures.
4. Notwithstanding some early teething problems and some implementation issues, house builders and their design teams are virtually unanimous in their support for the process, with a strong recommendation that it be retained at least until 2021.
5. The process is labour-intensive for the Board, Planning Authorities and developers’ design teams. For the Board, it has involved the establishment of both a special SHD Division and a SHD Unit; compliance with stringent statutory time limits has created significant workload pressures which may have impacted on the Board’s other case work. Planning Authorities have devoted significant staff resources to dealing with both informal and formal pre-application consultations, to the preparation of the Chief Executive’s report (tantamount to reporting in full on the application) and briefing the elected members, again within a short number of weeks. Many prospective SHD applicants now prepare almost a complete design for the formal SHD pre-application consultation, while the application itself entails extra documentation, such as a statement of consistency with both national and local planning policies.

6. There is a general consensus among both public and private sector planners who have engaged with the SHD process that the intense focus on pre-application consultation has been worthwhile, resulting in the submission of higher-quality planning applications and higher-quality developments. In particular, Irish Water is of the view that the current SHD process is working well as it ensures that the feasibility of providing water services to developments can be established through early engagement with developers and that the design of the water supply and wastewater collection infrastructure meets their quality assurance standards.
7. The primary objective of the Government in introducing the SHD process was to facilitate more efficient delivery of much-needed housing. Notwithstanding the much-improved decision times, the evidence for housing delivery in the form of Commencement Notices for developments, being currently just over half of permissions granted to date, is less than might have been expected, and we will make certain recommendations below to address this problem.
8. Public opinion is divided on whether the process should be extended. Based on the almost 200 submissions we received, some people are opposed in principle, arguing that the process diminishes the role of Planning Authorities and / or that it removes the appeal process. There is also a level of opposition to the greater housing densities and building heights inherent in particular SHD projects. On the other hand, there is support for measures which boost housing supply, particularly in cities and towns designated in the *National Planning Framework 2040* for substantially increased population growth. In particular, the Department of Business, Enterprise and Innovation jointly with IDA Ireland support the extension of the SHD process until 2021 because the availability of an adequate supply of high-quality housing options is central to Ireland's social and economic development.

5.2 Should the SHD process be extended to 2021?

Under the Planning and Development (Housing) and Residential Tenancies Act 2016, the Minister for Housing, Planning and Local Government may, by order, extend the process to the end of 2021. If a future government were to decide to extend or amend the process beyond that date, new legislation would be required.

Having regard to our main findings above, we recommend that the extension of this measure until the end of 2021 is justified for the following reasons:

- 1) The Government's *Rebuilding Ireland* action plan set a target of delivering 25,000 new homes annually. While the number of new dwelling completions has increased from 9,916 in 2016 to 18,072 in 2018 (CSO data), and may exceed 22,000 this year, there is still an accumulated deficit in housing supply. The primary rationale for introducing the SHD process in the first instance is therefore still valid.
- 2) An Bord Pleanála and Planning Authorities have invested very significant resources in operating the SHD process over the past two years. All SHD decisions have been made within the statutory period of 16 weeks. The Review Group considers this to be an important achievement, one which fulfils the aim in *Rebuilding Ireland* of delivering faster planning decisions which in turn facilitates faster delivery of greater amounts of new residential development. There is a very substantial pipeline of SHD schemes at the pre-application stage, and any interruption of this established means

to deliver a time-bound process of administration carries the significant danger of jeopardising the supply of much-needed new housing and student accommodation.

- 3) Many city and county development plans need to be updated to take account of (a) Regional Spatial and Economic Strategies (two of the three RSEs have themselves yet to be finalised) and (b) revised Ministerial planning guidelines (such as on building heights and apartment standards). As An Bord Pleanála is not bound by development plan standards (assuming the proposed site is zoned for residential development), it is in a better position over the next year or so to provide policy guidance to prospective SHD applicants.
- 4) The process can be extended to 2021 by Ministerial order. While some public consultation submissions have objected in principle to any extension, our review has focused on operational issues; we are therefore of the opinion that such objections are best considered in the context of any future extension beyond 2021, which would, if agreed from a Government policy viewpoint, require primary legislation and thus debate in the Oireachtas. Whatever decision is reached about extending the SHD process beyond 2021 will need to be debated, structured and established not less than 12 months in advance of the expiry of the extended period here recommended, to give certainty to the development and construction sectors.

Recommendation 1: The SHD process should be extended until December 2021, preferably modified as outlined below.

5.3 Activation of SHD permissions

Arising from our Terms of Reference and our meeting with Minister Murphy, it is clear that the issue of implementation of SHD permissions is of significant concern to the Department.

We have tried to establish (a) how many SHD permissions granted up to 30 June 2019 had been commenced; and (b) what was the average period between the grant of permission and commencement of works on site.

The Department collected commencement notice data from Planning Authorities in July 2019 in a spreadsheet which included the SHD reference number, a description of the project, and dates of both the ABP permission and commencement notice(s).

At our meetings with house builders and housing finance experts, we were advised that it would be reasonable to allow a period of at least one year between the grant of permission and the start of construction, to facilitate:

- Agreeing compliance conditions with the Planning Authority,
- Carrying out enabling works where necessary (e.g. road access),
- Arranging development finance.

On that basis, we looked at the 19 SHD permissions granted up to 31 August 2018 (the first was granted in January 2018), i.e. permissions which are now one year old. Of these, commencement notices had been received in respect of 11 sites (58%). The average period between the grant of permission and the start of construction was 35.4 weeks.

Taking account of all 49 SHD permissions granted between January 2018 and 30 June 2019, 18 (37%) had been activated in some way, through enabling works⁸ or commencement of housing construction. If the 15 SHD permissions granted between 2 April 2019 (the date of the most recent permission to be activated) and 30 June 2019 are discounted, leaving 34 SHD permissions, the activation rate increases to 53%. The average period between the date of grant of an SHD permission and the first commencement notice was 26 weeks.

In either case, the activation rate is in the range of 53% to 58%. In our view, this is less than might reasonably be expected, having regard to (a) the benefits of time saving and increased certainty for developers; and (b) the resources invested by the State in operating the SHD process.

We are unanimous in our view that the primary purpose of the SHD process is to expedite the delivery of additional housing, and not to enhance site value. The issue, therefore, is what measures might be taken to increase the activation rate?

The first possibility is to introduce a ‘use it or lose it’ measure, whereby a SHD permission lapses if construction is not commenced within a specified period. Care would need to be taken in defining the expiry period, to allow sufficient time to resolve potentially complex financial or infrastructural issues, particularly in relation to inner urban sites. We suggest a period of 2 years. In addition, the definition of ‘commencement’ requires consideration, to ensure a *bona fide* start; we suggest that substantive works need to be commenced on the first phase of residential development (e.g. 10-20% of the proposed total), as may be agreed between the developer and the Planning Authority.

An alternative approach would be to use the existing Vacant Site Levy mechanism where work has not commenced within 2 years of the SHD permission being granted.

However, as the majority of SHD permissions are less than one year old, we consider that it would be premature to take activation measures at this stage. Instead, we propose that the Department should continue monitoring SHD commencement notices for a further period before deciding whether such measures are required.

Recommendation 2: The Department should continue to monitor the rate of activation of SHD permissions for a further period. If the activation rate has not improved (to say 80%), policy measures (such as a ‘use-it-or-lose-it’ measure or the Vacant site Levy) should be considered to incentivise development of sites which have not been activated within 2 years of permission being granted⁹ .

⁸ Four only commenced enabling or demolition works.

⁹ An analysis of Dun Laoghaire-Rathdown’s Building Control Management System data from 2013 to 2018 was undertaken looking at residential permissions of 10+ units that had commenced development (unimplemented permissions are not included in this data). The analysis undertaken sought to ascertain the prevailing timeframe associated with the commencement of residential schemes over the last 5 years. The analysis found that 81% of implemented planning permissions for 10+ unit schemes had commenced within 18 months of the grant of permissions, 91% had commenced within 24 months, while 97% commenced within 2.5 years.

5.4 Role of development plans and local area plans

Consultation submissions indicate widespread concern among local authority members and the public that the provisions of development plans and local area plans are being set aside by the Board in approving SHD schemes which accord with recent Ministerial planning guidelines on building heights and residential density¹⁰.

While both the Board and Planning Authorities must have regard to the 'specific planning policy requirements' (SPPRs) set out in these guidelines¹¹, many development / local area plans will require to be amended following the adoption of Regional Spatial and Economic Strategies. However, local area plans and non-statutory masterplans often provide valuable contextual guidance in (i) establishing site-specific housing targets in compliance with core strategy objectives in city or county development plans; and (ii) the design and layout of housing schemes, for example, in ensuring connections to local amenities and services, and protecting the amenities of adjoining residents. Such plans (especially statutory plans) will also have gone through extensive consultation and debate at local level, and it is important that their status among local communities is not undermined.

Submissions from, and consultations with, Planning Authorities have identified a recurring issue in relation to implementation of core strategy housing targets. Both Planning Authorities and the Board must have regard to national planning policies – specifically the *National Planning Framework 2040* and Ministerial planning guidelines – in the performance of their functions, including decisions on planning applications.

City / county development plans adopt population and housing targets from the relevant Regional Spatial and Economic Strategy (RSES), which in turn allocates National Planning Framework (NPF) targets within each of the three Regions. However, only one RSES – that for the Eastern and Midlands Region – has been adopted, and planning authorities within that Region have commenced the process of reviewing their development plans to accord with the RSES policy objectives, including the identification of 'Key Towns' within their areas. In the Southern Region and the Northern and Western Region, this review process cannot begin until the RSESs have been adopted.

¹⁰ The Minister may, at any time, issue guidelines to planning authorities regarding any of their functions, and both Planning Authorities and the Board shall have regard to those guidelines in the performance of their functions. Since 2018, these guidelines may include 'specific planning policy requirements' (SPPRs) which are binding on both planning authorities and the Board. An example of one such SPPR (from the 2018 *Urban Development and Building Heights Guidelines*) which is of particular relevance to some SHD cases is the following:

'It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines;
2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and
3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.'

¹¹ Section 20 of the Planning and Development (Amendment) Act 2018.

However, it is worth noting that the Board has rarely used its powers to grant permission for SHD schemes which materially contravened development plans, or which were opposed by the Planning Authority.

Recommendation 3: Regard should continue to be had to local area plans and masterplans where they do not materially conflict with 'Specific Planning Policy Requirements' in Ministerial guidelines and where they provide important contextual guidance in assessing site-specific applications.

Chapter 6: Recommended modifications of the current SHD process

6.0 Introduction

Notwithstanding the significant progress and positive outcomes achieved through the SHD process to date, our meetings with stakeholders and our review of the consultation submissions have identified a range of implementation issues (summarised in Chapter 4). We set out our responses to those issues below and, where appropriate, recommend measures to address them.

6.1 General SHD issues

Staff resources:

The combination of intensive pre-planning consultations and adherence to strict statutory deadlines has imposed significant pressure on staff resources within Planning Authorities and An Bord Pleanála. This pressure can only increase over the next year or so if the large number of consultations with Planning Authorities mature into SHD applications. Already, evidence exists that other planning functions are being adversely impacted by the resource demands of SHD cases.

Recommendation 4: Having regard to the pipeline of prospective SHD applications currently being processed by An Bord Pleanála and by Planning Authorities, they should (a) monitor their SHD work pressures, and (b) undertake specific work-force planning to ensure that adequate staffing levels are provided and that other planning functions are not adversely impacted.

SHD application thresholds:

- (i) Residential unit thresholds: Various submissions, including those from a number of Planning Authorities, have argued that the threshold of 100+ residential units is too low and not sufficiently 'strategic'. There are also some indications that developers may be splitting large sites into sub-100 units (i.e. 99 units or less) to avoid being compelled to engage with the SHD process.

In our view, the concept of 'strategic housing development' has two aspects – the number of proposed units, and the location of the site in relation to strategic (national / regional) planning policy. With regard to the former, almost 70% of SHD residential applications decided by Q2 2019 were for less than 300 units. Moreover, Fingal Co. Council has informed us that while there are currently 79 active sites in the county, with a total of 2,606 units under construction, only one of these was a SHD permission. These 79 active sites have planning permission for c. 9,500 units, but more than half of these active sites have permission for less than 100 units. Fingal has found, since the adoption of the SHD legislation, there is a greater reliance on the smaller sites for the delivery of housing on the ground.

We are of the view that the SHD housing threshold should therefore be increased to 200 units. In reaching this recommendation we are conscious of developers becoming more comfortable with the SHD process and of the large pipeline of SHD projects being discussed with Planning Authorities; it would seem preferable that a greater share of these should be determined by those Authorities under the normal section 34 process, as this would acknowledge the important role of local authorities, maintain rights of appeal, and allow the Board to concentrate on truly 'strategic' cases.

With regard to strategic planning policy, the 2016 SHD legislation predated the publication in 2018 of the *National Planning Framework 2040* (NPF); as noted in Chapter 1, the introduction of the SHD process was mainly predicated on enhancing the delivery of housing units as set out in *Rebuilding Ireland* rather than focusing on the location of those units. The NPF envisages an extra one million people living in Ireland by 2040, which will require the delivery of an additional 550,000 new homes. The NPF targets the five main cities for 50% of overall national growth between them, with at least half of the new homes to be built within the existing built-up area of those metropolitan areas. The NPF's objectives are being translated by means of three Regional Spatial and Economic Strategies which will, when adopted by the Regional Assemblies, provide statutory spatial planning policy guidelines for all development plans and local area plans within their areas.

We are therefore of the view that, in addition to the numerical housing threshold, there should also be a strategic locational criterion, i.e. that proposed SHD sites must also be located within metropolitan areas or 'key towns' as designated in the relevant Regional Spatial Economic Strategy. However, as the proposed new threshold of 200+ residential units may be considered high in some 'key towns', we suggest that applicants for between 100 and 200 units be given the option of using either the SHD process or the section 34 planning process.

At the other end of the scale, we were concerned at the size of some of proposed SHD schemes (1000+ units) being discussed with PAs. While this issue is outside our remit, the Department may wish to consider some upper limit, to ensure that such schemes are plan-led, rather being assessed on a site-by-site basis.

- (ii) Commercial floorspace threshold: In relation to this threshold (maximum of 4,500 sq metres or 15% of the total gross floorspace), Dublin City Council and others have made the case that it can militate against the provision of mixed-use development in urban locations where the development plan or local area plan seeks to promote such development.
- (iii) Student bed spaces threshold: We have received no proposals to change this threshold.

Recommendation 5: The Department should consider amending the SHD thresholds as follows:

- (a) Residential schemes: 200 or more residential units on sites within metropolitan areas or 'key towns' designated in the relevant Regional Spatial and Economic Strategy.**
- (b) Residential schemes: prospective developers of schemes of between 100 and 200 units (on sites within metropolitan areas or 'key towns' designated in the relevant Regional Spatial and Economic Strategy) may opt to apply for permission under either the SHD process or the normal (section 34) process.**
- (c) Mixed-use schemes: the commercial or other non-residential uses should not exceed 20% of the total gross floor area [excluding internal car parking] on sites which are zoned for mixed-use development in the relevant development plan or local area plan.**

SHD applications within Strategic Development Zones:

A number of consultation submissions from residents within or close to Strategic Development Zones (SDZs) object in principle to SHD planning applications within those Zones. They argue that an approved SDZ Planning Scheme is much more detailed than a local area plan, so that both residents and prospective developers have a clear picture of how the Zone is expected to develop. Planning applications which accord with SDZ Planning Schemes must be granted and cannot be appealed. On the other hand, there is no such restriction on SHD applications; if they do not comply with the Planning Scheme, they have the capacity to undermine both it and the trust which people have invested in the SDZ process. Where a SDZ Planning Scheme needs to be updated, this can be done using the procedure provided under section 170A of the Planning and Development Act 2000.

Recommendation 6: The facility for submitting a SHD planning application within a Strategic Development Zone should be removed.

Judicial Review issues:

Three SHD permissions have been set aside by the High Court following Judicial Review (JR) cases brought by third party objectors to the schemes; a fourth case has yet to be decided. Where permissions have been overturned, the developer is likely to incur substantial costs as a result of design and application fees, legal costs, and delay costs. Even an unsuccessful JR challenge creates uncertainty, and thus the risk of delay reduces the benefits of the SHD process.

However, from the objectors' perspective, the right to seek a JR is enshrined in the Aarhus Convention and in EU environmental Directives. Several submissions made the point that the absence of an appeal stage in the SHD process has led to an increase in the number of JR cases; while this might intuitively appear to be true, it should also be noted that in 2018,

JR proceedings in relation to Board decisions and procedures were instituted in 41 cases¹², covering the spectrum of the Board’s casework.

As it is our understanding that the Department is considering further amendments to legislation governing JR cases, we make no recommendation in relation to this issue.

6.2 Pre-application consultation issues

Tripartite meeting time limits:

The inter-action of the various time limits set down in section 6 of the Act of 2016 means that Planning Authorities get a maximum of two weeks to arrange that all relevant technical sections attend the tripartite consultation meeting and that in the same period they are required to submit to the Board:

- a) Copies of records of all section 247 consultation meetings held with the applicant (prior to the applicant’s request for a tripartite meeting); and
- b) The Authority’s opinion on the proposed development, having regard to the development plan or local area plan.

In our view, these limits place unnecessary pressure on Planning Authorities, and may be counterproductive in terms of quality outcomes.

Recommendation 7: Legislation should be amended to provide for a period of at least four weeks for arranging the tripartite consultation meeting and for preparation of the information to be sent by Planning Authorities to the Board in advance of that meeting¹³.

Level of detail required for tripartite consultation meetings:

There is some uncertainty among planning practitioners about the level of detail required at tripartite pre-application consultations. While the legislation¹⁴ refers to ‘brief descriptions’, and the Board’s guidance for applications refers to ‘a strategic overview level’, in practice design teams often prefer to base the consultation on a near-complete application, as there is no scope for the Board to seek further information once the application is lodged.

Recommendation 8: The Board should clarify its guidance for prospective SHD applicants regarding the appropriate level of design detail expected at tripartite consultation meetings, based on its experience of conducting such meetings.

Clarity of Board ‘Opinions’:

Planning consultants acting for SHD applicants have also requested that the ‘Opinion’ issued by the Board’s Inspector following the tripartite meeting needs to raise a red flag if the

¹² An Bord Pleanála Annual Report and Accounts for 2018.

¹³ This will not affect the 16-week time limit for deciding SHD applications, which runs from the date of lodgement.

¹⁴ Section 6(5) of the Act of 2016 and article 285(2) of the 2017 SHD Regulations.

proposal as a whole, or a significant aspect of it, is likely to prove unacceptable, as the wording of the Opinion sometimes lacks sufficient clarity.

Recommendation 9: Without prejudice to the ability of the Board to determine a subsequent SHD application, the wording of the Opinion issued after the tripartite consultation meeting should be sufficiently precise to alert prospective applicants if their proposals, in whole or in part, are likely to prove unacceptable from a policy perspective.

Consultation with the local community:

Although pre-application meetings with both the Planning Authority and the Board may take place over many months prior to a SHD application being lodged, the general public – and local residents in particular – have no knowledge about the proposal, and will have only 5 weeks to inform themselves about the application and (if they so wish) prepare a submission to the Board. With larger and more complex SHD applications, this can cause resentment and a perception of being excluded from the process.

We consider that the making the Board’s ‘Opinion’ available to the public following the submission of a SHD planning application, together with a copy of the plans and other details discussed at the tripartite consultation, would alert interested members of the public in relation to a prospective application. However, they would need to be informed about the availability of the Opinion, e.g. by means of the Planning Authority’s weekly list of applications and decisions.

Recommendation 10: The Opinion issued by the Board following the tripartite pre-application consultation meeting should be made available on the website of the relevant Planning Authority, together with a copy of plans and other details discussed at the consultation meeting, upon lodgement of the SHD application. Details of SHD Opinions received by a Planning Authority should be published in a SHD section of its weekly list of applications and decisions.

Irish Water issues:

While some submissions have claimed that Irish Water has been slow in responding to Pre-Connection Enquiries (PCE), we are satisfied that they strongly promote early engagement with developers and have invested staff resources to facilitate this. Since the setting up of the PCE process in 2015 (i.e. prior to the SHD process), Irish Water has issued Confirmation of Feasibility responses to developers for approximately 200,000 dwelling units, and as a SHD statutory consultee it has dealt with 217 pre-application notifications for over 65,000 units. However, they state that in many cases developers are engaging with them at a very late stage, which may necessitate changes to the infrastructure layout or design.

While a statement of Design Acceptance from Irish Water is not mandatory under the 2017 SHD Regulations, Irish Water believes – and we agree – that such a quality assurance approach will ensure that the design and construction of water services infrastructure will

accord with the relevant Codes of Practice. It is important to note in this context that water and drainage infrastructure is vested in Irish Water when the housing scheme is completed, i.e. Irish Water is then responsible for its maintenance.

Recommendation 11: The Department should consider amending article 297 of the 2017 SHD Regulations to require applicants to obtain a Statement of Design Acceptance before submitting a SHD planning application to the Board.

Attendance by infrastructure providers at tripartite meetings

Some proposed SHD sites may require specific infrastructural investment by statutory agencies prior to commencement of development. In complex cases, it may facilitate such investment if those agencies were present at the tripartite meeting.

Recommendation 12: The Board should be enabled to invite prescribed bodies responsible for the provision of infrastructural facilities to attend tripartite meetings as may be required, on a case-by-case basis.

6.3 SHD application issues

SHD time limits

The Board is required to determine an SHD application within 16 weeks of receipt of the application. Within this period:

- Members of the public may submit observations on the proposed development within 5 weeks;
- The Chief Executive of the relevant Planning Authority must submit a report to the Board within 8 weeks, setting out his / her views on the proposed development having regard (*inter alia*) to submissions received by the Board; and
- Elected members must be briefed by the Chief Executive / Director of Service about the proposed development at a meeting of the relevant Area Committee or Municipal District. If the meeting takes place within 5 weeks of the application being lodged, the members can make submissions directly to the Board; if the meeting takes place after week 5 and before week 8, their views are summarised in the Chief Executive's report.

We have already addressed the issue of pre-application consultation with the local community (see **Recommendation 10**, above). In addition, we are of the view that a period of 5 weeks is too short for local residents and organisations to fully understand what may be a complex proposal (especially if our recommendation that the SHD threshold be raised to 200+ units) and formulate a considered submission to the Board. While 5 weeks is the period allowed for submissions in relation to section 34 planning applications, it should be noted that those making such submissions to a Planning Authority have the right to appeal any decision to the Board, in which case they have an opportunity to expand on their

submissions, often with the help of professional advisers. There is no such opportunity under the SHD process.

In practice, SHD submissions received by the Board are usually forwarded to the relevant Planning Authority after the closure of the 5-week period, which leaves little time for a response by the Chief Executive in his or her report. Furthermore, the cycle of full Council, Area Committee or Municipal District Meetings may result in their taking place after the 5-week period.

Recommendation 13: Consideration should be given to allowing a period of 7 weeks for receipt of submissions on SHD applications, and a period of 10 weeks from receipt of the application for receipt of the Chief Executive’s report. Planning Authorities should be allowed to convene a special SHD briefing meeting for their elected members within the 7-week period if that would be more convenient than the normal Area Committee or Municipal District Meeting. If necessary, the overall time for deciding SHD applications should be increased to 18 weeks¹⁵ to facilitate these proposed extended time limits.

Requests for Further Information:

Once a SHD application has been lodged, the Board has no power to seek Further Information (FI) from the applicant. Several submissions, mainly from developers and planning consultants (but also including some Planning Authorities), have urged us to recommend that provision be made for a strictly time-limited FI request, particularly where the provision of technical information – for example, in relation to infrastructural services – would prevent refusal of planning permission in the absence of such information.

We understand from our consultations with the Board that the fundamental problem with this recommendation is that in practice it cannot be time-limited, and therefore the Board may not be able to determine the application within the statutory time limit. The Board takes the view that the rules of natural justice which govern all its procedures mean that any FI received must be circulated to all parties and that those parties must be given an opportunity to comment on the implications of the FI from their perspective.

We see two possible alternative remedies:

Recommendation 14:
(a) The Board should consider convening an oral hearing¹⁶ where the submission of further information might obviate the necessity of otherwise refusing permission for a development which is acceptable in principle.
(b) Where the Board feels constrained to refuse an application on ‘technical’ grounds (i.e. where the development is otherwise acceptable in principle but where there is an infrastructural deficit capable of resolution), it should issue a certificate enabling the

¹⁵ The Board has a statutory objective to determine ordinary planning appeals within 18 weeks.

¹⁶ While no oral hearing of a SHD application had been convened up to June 2019, we understand that one hearing was convened after that date.

applicant to re-submit without having to repeat the entire pre-application consultation process.

Number of paper copies required:

Submissions from developers and their professional advisers have expressed dissatisfaction about the cost and effort in submitting numerous paper copies¹⁷ of a SHD application, in addition to the digital copy. While every effort should be made to ensure that the digital and paper copies are identical, in the event of any inadvertent discrepancy, the digital copy should be deemed to be definitive.

Recommendation 15:

(a) Applicants should be required to submit 2 paper copies to the Planning Authority, in addition to the digital copy.

(b) Only digital copies should be sent to the prescribed bodies.

(c) While every effort should be made to ensure that all digital and paper copies of an application are identical, in the event of any inadvertent discrepancy, the digital copy should be deemed to be definitive.

6.4 Post-decision issues

Minor amendments to permitted SHD schemes:

At present, there is no simple mechanism to enable developers to make minor changes to permitted schemes, for example, in response to market changes or design development. Instead, they have to go through the Strategic Infrastructure Development section 146B (Planning and Development Act, 2000 (as amended)) process, at an initial cost of €30,000 (some of which may subsequently be refunded). We are of the view that a faster and relatively inexpensive process should be provided to facilitate such minor changes. As the Board will have granted the initial SHD permission, it is best placed to determine whether the proposed amendments are material and, if so, to determine the subsequent planning application. This should be determined in a shorter timeframe (say 10 weeks), and without involving further pre-application consultations with the Planning Authority.

Recommendation 16: Legislation should provide for a process whereby the Board can approve non-material amendments to permitted SHD developments; the fee should reflect the Board's cost. Where the Board deems the proposed amendment(s) to be material, an amendment permission would have to be sought from the Board.

¹⁷ Two hard copies for the Board, six for the Planning Authority, plus one hard copy for each prescribed statutory consultee.

Compliance with conditions attached to SHD permissions:

At present, there is no statutory time limit within which Planning Authorities must sign off on compliance submissions attached to any kind of planning permissions¹⁸. Where the wording of such conditions requires the written agreement of the Planning Authority prior to the commencement of development, this may impede early activation of SHD permissions. A number of submissions also referred to ambiguous wording of Board conditions which necessitated referring the condition back to the Board for clarification¹⁹.

We acknowledge that the introduction of statutory time limits (for all planning permissions) for responding to compliance submissions will have staff resource implications for Planning Authorities – see **Recommendation 2**, above. However, PAs could also reduce the number of matters to be agreed, as recommended in conditions set out in the Chief Executive’s report to the Board.

Recommendation 17:

(a) The Department should introduce a statutory time limit for responding to compliance submissions. Commensurate additional staff resources should be provided to Planning Authorities.

(b) The Board should ensure that compliance conditions requiring PA agreement prior to commencement of development are kept to a minimum, and that the wording of such conditions is clear and enforceable. Similarly, in recommending conditions in the Chief Executive’s report, PAs should minimise the number of compliance conditions sought.

6.5 SHD website issues

Applicant’s website:

A SHD applicant is required²⁰ to establish a dedicated website containing a copy of the application; the website must be maintained for at least 8 weeks after the Board has decided the application.

In our view, this is not satisfactory. Firstly, most local residents would expect to find application details on either the Board’s website or the relevant Planning Authority website. Secondly, as there is no requirement to maintain the website beyond 8 weeks after the decision, there is no alternative source where details of the application can be viewed, for example, during the construction phase.

Recommendation 18: The requirement for a developer’s website should be omitted and replaced by the provision of application details on both the Board’s and Planning Authority websites.

¹⁸ Section 23 (4) of the Planning and Development Act 2018, which proposed such time limits, has not yet been brought into operation.

¹⁹ Under section 9(8) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

²⁰ Under article 301(3) of the 2017 SHD Regulations.

An Bord Pleanála website:

The Board's website provides less functionality than Planning Authority websites, and does not provide sufficient details about current and decided SHD cases. In particular:

- It does not show any layouts or other drawings;
- It does not provide copies of the Board's pre-application consultation record or Opinion, the Chief Executive's report, or of submissions received;
- It is not possible to make an online submission about a current SHD application or to pay the submission fee online;
- It is difficult to search for current or decided SHD cases.

We are aware that the Board is upgrading its entire IT system and that an improved website will be available next year²¹.

Recommendation 19: The Board's website should be upgraded as soon as possible, to enable:

- **Observations to be submitted online, together with the statutory fee, and such submissions to be viewed online;**
- **Digital versions of SHD applications to be viewed online;**
- **PDF versions of the Inspector's report, the Board's direction and decision, the record of the pre-application consultation and Board Opinion, the Planning Authority Chief Executive's report, to be downloaded;**
- **Easier search facilities for all SHD applications and decisions (e.g. a dedicated SHD web page).**

Planning Authority websites:

At present, only some Planning Authorities are uploading the digital copy of the SHD application which they receive from the developer on to their planning application websites.

Recommendation 20: All Planning Authority websites should be capable of uploading digital copies of SHD applications for viewing by the public following lodgement of such applications. The Department should consult with Planning Authorities and the Local Government Management Agency in resolving any technical issues, and the cost of any IT upgrades to facilitate SHD public access should be provided to the PAs.

6.6 Dissemination of best practice

All parties to the SHD process – the Board, Planning Authorities, developers and their professional advisers – would benefit from participating in a forum where experience could be shared regarding aspects of how the process works at present and could be improved. For example, there are some Planning Authorities which are relatively new to the process and which would benefit from sharing the experience of colleagues who are more familiar

²¹ An Bord Pleanála Annual Report and Accounts 2018.

with the process. The Board has already participated in several seminars with professional bodies and has indicated its willingness to extend its involvement.

Recommendation 21: The Board should initiate one or more forums in which planning professionals involved in the SHD process could share information and best practice.

If our recommendation regarding SHD housing thresholds is accepted (see **recommendation 5(a)** above), Planning Authorities will be responsible for determining the vast majority of planning applications for residential development, including schemes for between 100 and 200 housing units. There are elements of the current SHD process which might usefully be adapted within the PA planning process, such as:

- the pre-application consultation involving all relevant PA sections,
- the statement of consistency with national and local planning policies, and
- faster processing times where requests for Further Information can be avoided.

It may be possible to develop a pilot project within one or more PAs who deal with SHD applications. The Office of the Planning Regulator has indicated its willingness to assist in the provision of research and training.

Having regard to the additional PA staff resources needed to implement such best practice, consideration might be given at a later stage to (a) charging a higher application fee in return for the provision of a better PA service; and (b) the right of an applicant to opt for such a service or the normal section 34 process.

Recommendation 22: The Department should consider, in consultation with relevant Planning Authorities, whether elements of SHD ‘best practice’ might be adapted for use within the PA planning process, by developing pilot projects.

Appendix A: Submissions Received

1	Martin Lavelle	44	John Lennon
2	Melissa O' Callaghan	45	Rathgar Residents Association
3	Katie Waters	46	Imelda Galvin
4	Noel Reynolds	47	Marsham Court Residents Association
5	Cllr Des Guckian, Leitrim	48	HRA Planning Chartered Town Planning
6	Cllr Malcolm Byrne, Wexford	49	Geraldine Dunne
7	Dr. Michael Fahy	50	Bill Murphy
8	Victoria Homes Limited	51	Orla FitzGerald
9	Irish Planning Institute	52	Senator Victor Boyhan
10	Treasa Keegan	53	Sharon Coffey
11	Jean Carroll	54	Brid Meehan
12	Margot Gordon	55	Deborah Poole
13	Apartment Owners' Network	56	The Gregg Family
14	Cllr. Tina McVeagh, Cllr. Hazel de Notuin People Before Profit (Dublin South Central)	57	Residents of Dolphin's House
15	Killarney Town Twinning Association	58	John Lahart TD
16	Amanda McCoy	59	Jean Carroll
17	Adrienne Quinn	60	Noleen O'Keefe
18	Marie Morrin	61	Sharon Fitzpatrick
19	Jean Harrision	62	Thorsten Ohlow
20	Martina Byrne	63	Dean Kinsella
21	Peter Heylin	64	Carmel O'Hara
22	Linda Kemple	65	Caroline Phelan on behalf of Galway City Council
23	Christine Fitzpatrick	66	Sandra Silke
24	Emma M. Harrison	67	James Benson on behalf of Irish Home Builders
25	Sorcha O'Reilly	68	Adrienne Quinn
26	Monica Leahy	69	Transport Infrastructure Ireland
27	Michael Byrne	70	O'Flynn Group
28	Lisa Byrne	71	Liam Mulcahy
29	Paul McMahan	72	Aisling Pullen
30	Gerry Jeffers	73	Lindsey Murphy
31	Irish Water	74	Cllr Naoise O Muiri (Dublin Bay North)
32	John O'Mahony	75	Thomas Broughan TD
33	Richard Cummins	76	Burkeway Homes
34	Imelda Dunleavy	77	Michael Redmond
35	Liam Egan	78	Niamh Gormon, (ten submissions included)
36	Linda Kemple	79	Teresa Flynn on behalf of Imagine Dundrum
37	Steven Hughes	80	Anita Dunphy
38	Irish Glass Bottle Housing Action Group, (three submissions included)	81	Patricia Rogers
39	Gerard Edgely	82	Anne Trehy, (three submissions included)
40	Mark Price	83	Valerie Murphy, Flora Fletcher
41	Tom Crilly	84	Cllr Pdraig O Sullivan (Cork County Council)
42	Sueann Moore	85	Sharon Kirkpatrick
43	Mary Kemple	86	Tom Merriman

87	Louise Rooney	127	Meadhbh Nolan on behalf of Glenveagh
88	David Walker	128	Cllr Jimmy Guerin
89	Kevin Cosgrave	129	Isolde Dillon on behalf of the Housing Agency
90	Olivia Flynn	130	Cllr Alan O Connor
91	Christine Cosgrave	131	Gabriel McGoldrick on behalf of Heather Hill
92	Cllr Ide Cussen (Celbridge, Kildare)	132	Cllr Jimmy O Leary (Fingal County Council)
93	David Davison	133	Jennifer Cummins
94	Sean Dunne	134	Deborah Barry
95	John Spain Associates on behalf of Hibernia	135	Mary Doolan
96	Aoife Long	136	Derek Murphy on behalf of O'Mahony Pike
97	J. Griffith Rollefson	137	Catherine Kelly
98	Richard Boyd Barrett TD	138	Davnet Cotter on behalf of Save Our Seafront
99	Ulrike Ascher	139	Patricia Mary McKenna
100	Cllr Vincent Jackson (Ballyfermot)	140	Tom Phillips + Associates
101	McCutcheon Halley Chartered Planning	141	Karen Keane on behalf of Kildare Co. Council
102	Tom Grogan	142	Cllr Cieran Perry (Dublin 7)
103	Cllr Anne Colgan (Dun Laoghaire Rathdown	143	Eoin O Broin TD
104	Susan Fogarty on behalf of the National Asset Management Agency	143a	Eoin O Broin TD (excel submission)
105	Eamon Ryan TD	144	Prof. Patrick Drudy
106	Sabrina Joyce	145	East Wall Community Council
107	Sarah Hill on behalf of MKO Planning	146	Eastern and Midland Assembly
108	Roebuck Residents Association	147	Cllr Padraig McEvoy (Maynooth, Kildare)
109	Marie O Reilly	148	Carol Doyle
110	Megan Willows-Munro	149	Cllr Claire Byrne (S.E. Inner City), Catherine
111	Joe Miller on behalf of RIAI	150	Maria Lambertini
112	Harry Walsh on behalf of HW Planning	151	Kevin and Asha Smith
113	Wendy Cox	152	Cllr Vanessa Liston, Cllr. Peter Hamilton, Cllr.
114	Dublin City Council Planning Dept., Mary Conway	153	Ashlawn Residents Association
115	Rosie O Reilly	154	Kildare County Council
116	Brady Shipman Martin	155	Glouthaune Community Association
117	John Spain Associates for Richmond Homes	156	Jacqui O Riordan
118	Celbridge Community Council	157	Murnane & O'Shea Ltd
119	Belgard Area Residents Association	158	Doyle Kent Planning
120	Mary Mitchell O'Connor TD	159	Clontarf Residents Association
121	Mike Fitzgerald	160	Jackie Thomson
122	Mary Kemple	161	Bryan Meredith Avison Young for Hines Ireland
123	Cabinteely & District Residents Association	162	James Leonard Castlethorn
124	Society of Chartered Surveyors	163	Patrick O Sullivan
125	James Benson on behalf of the Construction Industry Federation	164	Alison Gilliland
		165	Cormac Brown Iona & District Residents
126	Hines Ireland	166	Orla Hegarty and Lorcan Sirr

167	Allison O Hara
168	IBEC and Property Industry Ireland(PII)
169	Ed Barrett Gravis Planning
170	Rose Kevany Killiney District Community
171	Joe Miller on behalf of RIAI
172	Cllr Nuala Killeen (Leixlip) on behalf of Social
173	Cathal O Connor Cabins
174	Cllr Naoise O'Muirei (Dublin Bay North)
175	Edward McAuley Society of Chartered Surveyors Ireland
176	Cllr David Healy (Fingal Co. Co.)
177	Catherine Martin TD
178	Cllr Deirdre Donnelly (Dun Laoghaire-
179	Kate Betts
180	Georgina St. Anne's Community Group
181	David Murray, Fingal Co. Co.
182	Tiarna Devlin Westbridge Real Estate
183	Miguel Sarabia, Tom Phillips + Associates
184	Sandra Silke Galway Co. Co.
185	Patrick Crean - Marlet
186	Mike Fitzgibbon
187	Cairn PLC
188	Gabriel McGoldrick.
189	Joesph Cummins DBEI and IDA Ireland
190	Gerard Stockil on behalf of Tallaght Community Council Community
191	Age Friendly Ireland
192	Kevin Brennan
193	Marie Lambertini
194	Mark McLoughlin Kildare Co. Co.
195	RTPI Ireland

Appendix B: Meetings with SHD stakeholders

The Review Group held meetings with representatives of the following organisations:

Planning bodies:

- An Bord Pleanála
- Office of the Planning Regulator
- Cork City Council
- Dublin City Council
- Dun Laoghaire-Rathdown Co. Council
- Fingal Co. Council
- Kildare Co. Council
- Meath Co. Council

Housebuilders:

- Cairn Homes Properties Ltd
- Park Developments
- Irish Home Builders Association

Professional bodies:

- Irish Planning Institute
- Society of Chartered Surveyors Ireland

Housing finance:

- A.I.B. Real Estate Finance
- Property Industry Ireland (Finance Policy committee)

Statutory consultees:

- Irish Water