

STRATEGIC HOUSING DEVELOPMENTS UNDER THE 2016 PLANNING ACT - an update

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LEGISLATIVE MILESTONES

- 2016 Planning and Development (Housing) and Residential Tenancies Act
 - fast-tracked through Oireachtas, published 4 November 2016 and signed by President 23 December 2016
- March 2017 - Board published its Fees Schedule
 - following receipt of Ministerial approval
- 3 July 2017 – Planning and Development (SHD) Regulations came into operation
- Provisions apply only during “specified period”
 - 3 July 2017 to 31 December 2019
 - Ministerial review of effectiveness by 30 October 2019
 - possibility of extension until 31 December 2021

KEY CONCEPTS

“Strategic housing development”

- 100 or more houses on land zoned residential
- 200 or more bedspaces of student accommodation on land where the zoning facilitates this
- Small amount of other uses may be included, if the zoning facilitates them

“Student accommodation”

- A building or part thereof used for student accommodation and not for use as a permanent residence
- can be used outside academic terms for tourist or visitor accommodation

THREE STAGE PROCEDURE

- **Consultations with planning authority**
 - mandatory, request must be facilitated within 4 weeks
 - prospective applicant must provide information beforehand
- **Consultations with An Bord Pleanála**
 - details and form to be submitted by prospective applicant
 - request can be refused for failure to comply with legislation
 - takes place within 6 weeks
 - involves senior planning authority staff but no role for public
 - can include request(s) for screening and scoping
 - **Submission of SHD application to the Board**
 - time limit of 16 weeks, legislation provides for fines

BOARD HAS PUBLISHED A WEALTH OF GUIDANCE DOCUMENTATION ON THE SHD PROCESS

Examples:

June 2017 – General Overview

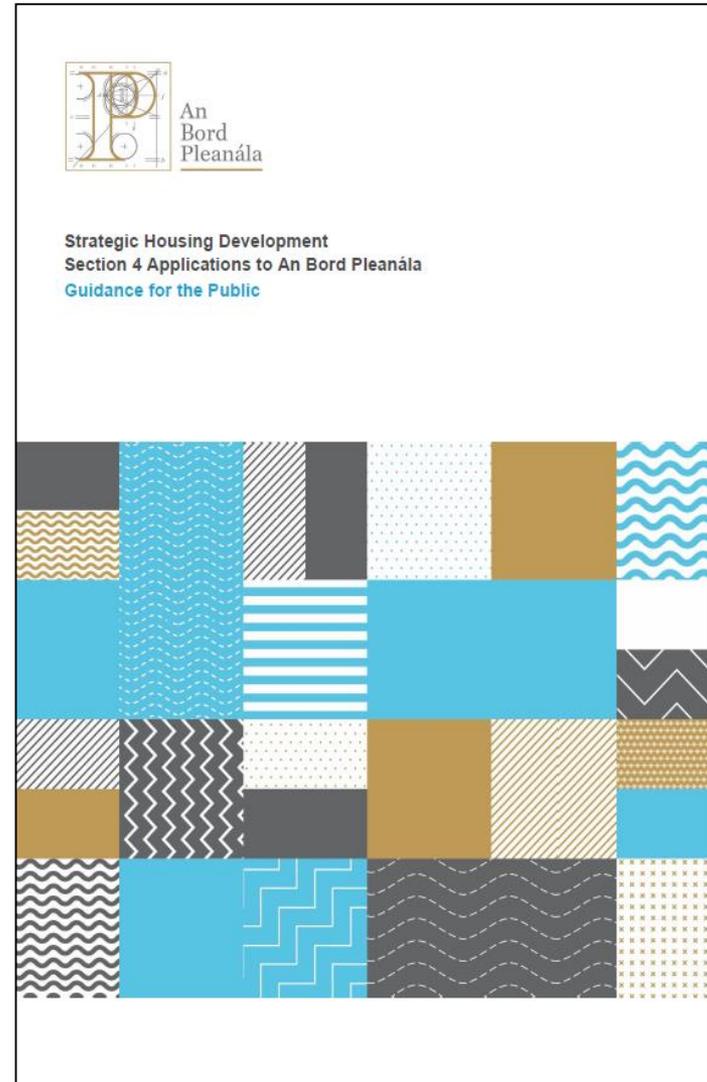
June 2017 – Guidance on
Pre-Application Consultations

July 2017 – guidance on Section
4 Applications

January 2018 – How to Make a
Submission on an Application

**THESE ARE KEPT UNDER
REVIEW AND UPDATED**

www.pleanala.ie



EROSION OF PUBLIC PARTICIPATION?

First concern - Exclusion from two sets of consultations

- (i) with planning authority under s. 247 of 2000 Act
- (ii) with Board and PA under s. 5 of 2016 Act

SID case - *Callaghan v An Bord Pleanála* [2016] ICEA 398

Second concern - Danger of Board becoming a facilitator

Extensive discussions can lead to unintended provisional agreements being reached

Guidance clearly states no merits-based assessment

POST CONSULTATION OPINION

the Board

(a) “shall form an opinion as to whether the documents referred to in s. 5(5) –

(i) constitute a reasonable basis for an application under s.4,
or

(ii) require further consideration and amendment in order to constitute a reasonable basis for an application under s.4”

and

(b) shall issue a notice setting out “its advice as to the issues that need to be addressed in the documents to which s. 5 relates that could result in them constituting a reasonable basis for an application under s.4”

Formation of Opinion has been delegated to Inspectorate

S. 5 PRE-APPLICATION CONSULTATION

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Pleanála: TC0004: Truskey East, X

www.pleanala.ie/casenum/TC0004.htm

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Weekly lists

- New cases
- Decided cases
- SID cases
- Oral hearings
- Referrals

Planning Appeals

- Dublin
- Connacht
- Leinster
- Munster
- Ulster

Other cases

- Local Authority Projects
- Determinations
- Referrals
- Strategic Infrastructure Developments
- Appropriate Assessment
- Others

TC0004: Truskey East, Bearna, Galway. O

Galway County Council

Construction of 113 no. new dwelling houses.

Case reference: PL07 .TC0004

Case type: Strategic Housing Development - Consultation

Decision: Is Not reasonable basis for Appl

Date Signed: 21/09/2017

Parties

- Burkeway Homes Ltd (Prospective Appl)
- Galway City Council (Planning authority) (Active)
- Galway County Council (Planning authority) (Active)

History

- 21/09/2017: Is Not reasonable basis for Appl
- 27/07/2017: Lodged

Documents

- Inspectors report (TC0/RTC0004.pdf, PDF format 299kB)
- Direction (TC0/STC0004.pdf, PDF format 21kB)
- Other (TC0/KTC0004.pdf, PDF format 458kB)
- Records (TC0/PTC0004.pdf, PDF format 428kB)

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SHD PLANNING APPLICATIONS

- comprehensive documentation plus a website
- Statement of Response to Opinion
- copies of application sent to planning authority by applicant
- 5 week period for public participation
- Further 3 weeks for PA to submit report to the Board
- No appeal but decision is subject to Judicial Review

3 JULY 2017 - 31 MARCH 2018

- **62 requests for SHD consultations**
 - single consultation meeting in each case
 - process takes 9 weeks (6 + 3)
- **20 applications submitted**

D/L-Rathdown 6; Dublin 4; Kildare 3;
Cos. Cork and Galway 2; Cork, Fingal and SDCC 1
- **11 decisions**
 - 7 grants, 3 refusals, 1 split decision
 - 5 exclusively student accommodation, 1 mixed