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## **An Comhchoiste um Thithíocht, Rialtas Áitiúil agus Oidhreacht**

Tuarascáil maidir leis an nGrinnscrúdú Réamhreachtach ar  
Scéim Ghinearálta an Bhille um Pleanáil agus Forbairt (Leasú)  
(Forbairtí Cónaithe Mórscála), 2021

Deireadh Fómhair 2021

## **Joint Committee on Housing, Local Government and Heritage**

Report on Pre-Legislative Scrutiny of the General Scheme of the  
Planning and Development (Amendment) (LSRD) Bill 2021

October 2021



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## PREFACE



It is widely acknowledged that at present there is a significant and urgent need to increase the supply of housing and accommodation, both for those studying in the State and for those living in the State more generally. In this regard the Committee is pleased that the Government is introducing the *Planning and Development (Amendment) (LSRD) Bill 2021* and is looking forward to working with the Department of Housing, Local Government and Heritage to further strengthen the legislation as it progresses through the Houses.

The proposed Bill is a significant step to restore the two-stage planning system with public participation and in addressing planning issues that have in recent times inhibited the construction of homes. It will help to streamline the planning process and will allow for the management of planning issues to be carried out at local level.

The Committee broadly welcomes the proposed legislation but has made a number of recommendations, particularly aimed at strengthening those aspects of the legislation that concern public participation and community consultation, as well as highlighting the need for robust and fully resourced planning departments within local authorities. These measures should help to provide for an efficient and effective planning process while minimising the adversarial aspects of planning that sometimes occur.

The Committee would like to express its gratitude to all the witness who attended before the Committee and to all those who took the time to make written submissions, and we look forward to further engagement in the future.

A handwritten signature in dark ink, appearing to read 'Steven Matthews'.

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Steven Matthews TD.,  
Cathaoirleach,  
Joint Committee on Housing, Local Government and Heritage,  
5<sup>th</sup> October 2021

## INTRODUCTION

In accordance with Standing Order 173<sup>1</sup> the *General Scheme of the Planning and Development (Amendment) (LSRD) Bill 2021*<sup>2</sup> (the General Scheme) was referred to the Joint Committee on Housing, Local Government and Heritage (the Committee) on 23 July 2021. The Committee agreed at its meeting on 26 July 2021 to undertake pre-legislative scrutiny of the General Scheme.

The Committee conducted pre-legislative scrutiny at two meetings and engaged with various stakeholders, detailed below. The Committee also invited a number of stakeholders to make written submissions on the General Scheme and these are linked in Appendix 5.

### Tuesday 7 September 2021

#### Department of Housing, Local Government and Heritage

- Mr Paul Hogan, Chief Planning Adviser
- Mr Colin Ryan, Planning Division
- Mr Conor O' Sullivan, Planning Division,
- Ms Ciara Gallagher, Planning Division

### Thursday 9 September 2021

- Mr Kevin Kelly, Mayo County Council, CCMA
- Ms Mary Henchy, Dun Laoghaire-Rathdown County Council, CCMA
- Mr Michael Rainey, Carlow County Council, CCMA
- Ms Mary Conway, Dublin City Council, CCMA
- Mr James Benson, Construction Industry Federation

<sup>1</sup> [https://data.oireachtas.ie/ie/oireachtas/parliamentaryBusiness/standingOrders/dail/2021/2021-01-27\\_consolidated-dail-eireann-standing-orders-january-2021\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/parliamentaryBusiness/standingOrders/dail/2021/2021-01-27_consolidated-dail-eireann-standing-orders-january-2021_en.pdf)

<sup>2</sup> <https://www.gov.ie/en/publication/a10f2-general-scheme-of-planning-and-development-amendment-lsrd-bill-2021/>

- Mr Tom Parlon, Construction Industry Federation
- Dr Conor Norton, Irish Planning Institute
- Mr Robin Mandal, Dublin Democratic Planning Alliance
- Ms Marion Cashman, Dublin Democratic Planning Alliance
- Mr Ray Kenny, Dublin Democratic Planning Alliance
- Mr Sebastian Vencken, Dublin Democratic Planning Alliance



## BACKGROUND

### BACKGROUND TO THE SHD PROCESS

The *Planning and Development (Housing) and Residential Tenancies Act 2016*<sup>3</sup> (the Act) introduced new streamlined arrangements to enable planning applications for Strategic Housing Developments (SHDs) of 100 housing units or more, or student accommodation or shared accommodation developments of 200 bed spaces or more, to be made directly to An Bord Pleanála for determination.

The SHD fast-track planning arrangements were introduced in the context of the development of the 'Action Plan on Housing and Homelessness – Rebuilding Ireland' (2016) as part of the comprehensive package of measures aimed at expediting the delivery of housing supply, in both the public and private sectors.

According to the Department the primary purpose of the SHD arrangements was to speed up the planning decision-making process for large-scale housing developments on land already zoned for residential development, particularly in the larger urban areas where housing demand is most acute, thereby providing greater planning certainty for developers in terms of the timelines within which proposals for such developments can be determined.

However, the SHD arrangements have been the subject of some criticism i.e.

- while the number of housing units granted planning permission has increased, the actual subsequent activation rate of such permissions has been less than might have been expected given the benefits associated with the fast-track process which was introduced;
- they have resulted in a democratic deficit in the planning process with reduced local authority involvement in final decision making on planning applications; and
- the only appeals mechanism against planning decisions under the SHD process is by way of judicial review resulting in an increase in the number of

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<sup>3</sup> <http://www.irishstatutebook.ie/eli/2016/act/17/enacted/en/print.html>



judicial review challenges against large-scale housing developments than was previously the case.

In light of the foregoing factors and trends in relation to the SHD arrangements, the *Programme for Government – Our Shared Future*<sup>4</sup> committed to not further extending said arrangements and restoring the previous two-stage planning process while also seeking to retain some of the positive elements of the SHD arrangements – i.e. mandatory pre-application consultation and decision timelines. Further to the Programme for Government commitment in this regard, a SHD Consultative Forum – chaired by the Department and comprising representation from relevant stakeholders including the Local Government Managers Association, An Bord Pleanála, the Construction Industry Federation/ Irish Home Builders Association, the Irish Planning Institute and other groups representing the property sector - was established in December 2020 to formulate new planning arrangements to replace the SHD arrangement.

## LSRD ARRANGEMENTS

- The main purpose of the new LSRD proposals in the General Scheme is to give early effect to the Programme for Government commitment to wind up the SHD arrangements. In doing this, it is proposed to introduce new local authority arrangements to replace the SHD arrangements.
- The proposed new Large-Scale Residential Development (LSRD) arrangements comprise 3 pillars– pre-application consultation stage, planning application stage and appeal stage.
- Planning authorities will be required to complete the “final consultation meeting” within 8 weeks of the request.
- Planning authorities will be required to determine LSRD planning applications within 8 weeks of receipt.
- A mandatory 16-week timeframe for decisions on appeals will be a new requirement for these types of proposals and will streamline the decision-

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<sup>4</sup> <https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/>

making process thereby providing greater clarity to developers regarding timeframes for decisions in respect of large-scale residential proposals.

- The definition of a LSRD will be largely similar to that for a SHD, i.e. developments of 100 housing units or more, or student accommodation developments comprising 200 bed spaces or more, or a combination of same.
- The General Scheme also proposes a number of transitional arrangements in relation to the expiry of the SHD arrangements and their replacement by the new LSRD arrangements.
  - The legislative expiry date for SHD was end December 2021. This was extended to 25 February 2022 arising from the COVID-related extension of statutory deadlines within the planning system by 8 weeks in respect of the period March to May 2020.
  - 25 February 2022 has been retained as the end date for receipt, by the Board, of applications on SHD.
    - Except in certain cases where a developer is in receipt of an opinion on or before the 29 October 2021, the deadline shall be the 31 December 2021.
    - Applications in receipt of an opinion are considered to be sufficiently advanced to enable an application proposal to be submitted within the timeframe provided for.
    - This will also allow for the phased submission of SHD applications to the Board and avoid the Board being inundated with application on 25 February 2022.
  - Given the Board's 16-week timeframe for deciding a SHD application, decisions will continue to be made by the Board after this date (approx. end August 2022).
- The LSRD and SHD schemes will both operate concurrently for a certain period of time until the final SHD applications have worked their way through the system at which point the LSRD arrangements will be the sole planning consent system for applications of this scale.

## KEY ISSUES WITH THE PROPOSED LEGISLATION

In examining the General Scheme, the Committee has identified areas that are of particular interest and/or where further consideration should be provided. In scrutinising the General Scheme, the Committee largely focused on four significant areas of the General Scheme, as well as other miscellaneous issues and observations:

As such, these elements of the General Scheme form the basis of the key issues discussed below.

### KEY ISSUE 1: PUBLIC CONSULTATION

#### CONSULTATION WITH ELECTED MEMBERS

In discussing the General Scheme with representatives from the Department the Committee noted the importance of public consultation at all stages of the planning process and in this respect also highlighted the benefits of keeping local elected representatives informed and briefed on planning applications. The Committee notes that this is particularly important in relation to large-scale developments that may affect local area plans or significantly impact on local areas and communities.

In this regard the Committee note that one aspect of the Strategic Housing Development, SHD, process that local authority members found useful was the statutory consultation and briefing for local elected representatives. The Committee note that this engagement, provided for under Section 8 of the 2016 Act<sup>5</sup>, was of significant benefit to elected representatives of local authorities and suggest that if a similar provision was included in the General Scheme this would contribute to better public participation in the planning process.

Responding to this the Department advised that it should be borne in mind that the large-scale residential developments are a reversion to the system within the central eight weeks where the planning application is made and within that time local elected

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<sup>5</sup> [Section 8, Planning and Development \(Housing\) and Residential Tenancies Act 2016](#)

members have the facility to make an observation on a planning application free of charge and they can have that recorded within the five weeks. Though the Committee acknowledged that each local authority member is entitled to make a separate submission, it is felt that one of the benefits of the SHD legislation was that a collective discussion could be facilitated and this meant that the middle ground of opinion on an application could be represented.

However, the Department advised the Committee that caution should be exercised on how a mandatory consultation process with elected members, similar to that seen in the SHD process, would operate in tandem with the LSRD process. They explained that due to the fact that elected members make the development plan as the planning authority, they are the policy making body, and linked to this are the making of decisions on planning applications which are delegated to the executive. In this regard the Department noted that the procedure of how elected members interact with the process and at what point needs to be carefully considered given the balance between the policy making role, the duty of the executive to implement the plan, and the existing right of elected members to make submissions and to appeal.

The Committee also raised the matter of the statutory consultation with representatives of the County and City Management Association, CCMA, and they too noted that once the move back to a scenario where the planning authority becomes the decision maker is in place then the involvement of the elected members in that decision-making process will be different. The CCMA noted that in light of the responses from the Minister and the Department it would appear that the Minister is of the view that it would be inappropriate for a role to be played by elected members in planning applications that are going to be determined by the planning authority, aside from their normal representational role and their opportunity to make submissions.

With regard to the above the Committee acknowledges that there might be a difficulty in applying the mandatory consultation process as seen in the SHD process to the LSRD process, however it is of the opinion that finding some type of middle ground on the matter would be of great benefit for local representatives. The

Committee suggests that facilitating this should be explored, possibly involving scenarios where specific briefings could be provided to local elected members or Area Committees within a framework or guidelines which would not prejudice or have a material impact on the decision of the executive.

## RECOMMENDATIONS

1. The Committee recommends that the proposed Bill include a requirement for all LSRD applications to be presented in public to the elected members of the relevant Local Authority and that briefing documents for these engagements be made available to the public to facilitate further engagement.

## COMMUNITY CONSULTATION

Throughout the Committees engagement with the Department and other stakeholders, the importance of the need for high levels of public participation and community consultation at all stages of the proposed planning process was raised by the Committee. This is especially significant if the proposed new LSRD planning process is to avoid the negative consequences of adversarial legal challenges and high numbers of judicial reviews that were seen to inhibit the outgoing SHD planning process.

In this regard, the Committee questioned the Department whether there was any consideration given to increasing the requirements on planning applicants to meaningfully engage with communities regarding large scale developments. The Committee notes that the lack of a requirement for public participation or public access to documentation during the pre-planning consultation under Head 5 of the General Scheme might be a missed opportunity to strengthen public participation in the process and avoid future objections or judicial reviews.

Responding to this the Department noted that community consultation should be taking place at the development plan stage, but acknowledged that development plans need to be stronger and more directive about aspects so when a planning application is submitted the community knows what to expect and has already been engaged. Although the Committee agrees that the development plan stage should be the framework that gives certainty on this, it notes that in practice, for many local communities planning issues only become a reality when they are faced with an actual planning application. In this context it is also acknowledged that most community planning concerns can be site specific, and may revolve around access, parking, traffic and other such localised features. The Committee notes that zoning information and various colours on development plans can feel abstract for people but actual planning applications are when most people engage, and so consultation at an early stage in the pre-planning process would be beneficial for everyone concerned and should be examined.

In respect of the above, the Committee notes that it would be of significant benefit to both planning applicants and local communities if the proposed legislation contained a requirement for a certain level of public consultation to be incorporated into the pre-planning consultation stage.

## RECOMMENDATIONS

2. The Committee recommends that the proposed bill contain a requirement for public consultation at the pre-planning stage within the statutory timeframe as set out in the General Scheme. (The Committee discussed further defining the public consultation process but felt that the matter might be more fully addressed at Committee Stage of the Bill).

## DOCUMENTATION

Further to the benefit of public consultation being required at the pre-planning consultation stage of the LSRD process, the Committee in its deliberations on the

matter also discussed the potential benefit of high-quality documentation at the pre-planning stage of the process.

In this regard the Committee notes that many judicial reviews of planning decisions have been successful due to relevant documentation having been found to be lacking in sufficient detail or missing. In order to mitigate against these scenarios, the Committee notes that it should be made very clear to planning applicants that the documentation submitted at pre-planning stage should be of the highest quality and should comply with and cover all aspects of planning requirements. In discussing this with representatives from the Department the Department acknowledged that there was some concern that in reverting to the two-stage system applicants may see the initial local government stage as a sort of a trial-run for the inevitable appeal. Expanding on this the Department advised that this can be avoided by ensuring the earlier stage of the process is strengthened, and in this respect the Committee strongly advises that matters be addressed as appropriately as possible and documentation should be submitted in the highest quality at the pre-application stage.

The Committee also queried whether it would be beneficial in a public consultation context to make documentation submitted throughout the pre-application process publicly available. In this regard the Department noted that it is useful for this information to be in the public domain but advised that the issue is whether it should be made available before or after the planning application is made. On consideration of this point the Committee feels that early engagement with the public at all stages of the planning process is beneficial and as such notes that this pre-planning documentation should be made available following submission of the application.

## RECOMMENDATIONS

3. The Committee recommends that the proposed bill provide for the requirement on planning applicants to submit appropriate, relevant,



complete, and high-quality documentation relating to the proposal at pre-application stage.

4. The Committee recommends that all documentation submitted at the pre-application stage be made publicly available following the submission of an application under Section 34.

## KEY ISSUE 2: RESOURCING LOCAL AUTHORITIES

Throughout the Committees discussions on the proposed legislation, the issue of adequately resourcing local authorities was raised by a number of stakeholders.

On this matter the Committee notes that a strengthened pre-planning process will have staffing implications for local authorities and that a stronger LSRD pre-planning process might also have implications for small and medium-sized planning applications below the threshold of those of LSRD applications. Further to this it is a concern of the Committee that the time limits provided for in the proposed legislation together with the increased workload and the increased requirement for planning expertise may impact on the ability of local authorities to effectively meet the demands of the LSRD process.

In their meeting with the Department the Committee enquired whether there is work being undertaken to mitigate any impact the new LSRD process may have on local authority resources and to ensure there will be sufficient resources to meet the requirements of the LSRD planning process. The Department, in responding to this, acknowledged that staffing implications are important for local authorities and advised that they have asked the CCMA to review its planning resources with a view to identifying what its need will be.

Expanding on the above, in discussing resource requirements with the CCMA they stated to the Committee that the issue of resourcing generally in local authorities is the subject of an ongoing discussion with the Department of Housing, Local

Government and Heritage. Mr Kevin Kelly of the CCMA noted that planning has become more complex and developments bigger, but the resources that were lost to planning authorities following the downturn have not been replaced as the funding has not been there. The CCMA noted that it is clear that there is going to be additional requirements in local authorities in respect of administration and the administration of the process itself, with significant aspects of the process now the responsibility of the local authorities rather than the applicant or the Board. In addition to this they noted that other departments apart from planners will need to have input into applications due to the breadth of knowledge required in respect of informing considerations at pre-planning and application stages. The CCMA noted that there is a general consensus that there is a resource deficit in respect of the planning function within local authorities generally and noted that they would be happy to work with the Department to resolve this. With regards General Scheme, the CCMA acknowledged that the time limits for engagement with applicants will have resource implications across several disciplines within planning authorities. Elaborating on the resource requirements required for the proposed legislation, the CCMA also voiced concerns over the provision under Head 6(4), which makes reference to the knowledge and expertise of officials attending meetings. They noted that the placing of such a provision in primary legislation should be considered carefully, particularly in light of possible under-resourcing in local authorities.

When queried by the Committee on how quick local authorities would be able to increase staffing and resource levels were they given the budget to do so, the CCMA advised that local authorities would have panels in place and noted that they are accustomed to moving resources between planning enforcement and development management and thus advised that if given additional funding, local authorities could deal with the issue of resources.

The Construction Industry Federation, CIF, also spoke of the need for Local Authorities and An Bord Pleanála to be fully resourced to meet the mandatory timelines set out in the proposed Bill if the scheme is to be effective. They advised that early interaction and mandatory response parameters should be used to determine capacity and any technical issues at an early stage in the process.

Echoing the sentiment above, Dr Conor Norton of the Irish Planning Institute, IPI, though welcoming the measures to increase efficiency and improve the quality of planning applications and decision-making, noted the IPI is acutely aware of chronic under-resourcing of planning department at local level in Ireland. Dr Norton remarked that in a survey undertaken by the IPI, 28 out of 29 planning authorities cited the under-resourcing of planning department as the single biggest challenge facing planning in Ireland, and further advised that this view is shared by the vast majority of planning consultants in the private sector. In this respect the IPI strongly urge the Department and the Local Government Management Agency and other relevant bodies to prioritise the resourcing of local authority planning departments as a matter of urgency to ensure the smooth implementation of the new legislation. The Dublin Democratic Planning Alliance welcomed a reversion of decision making to local planning authorities but also highlighted the need for them to be adequately resourced.

In their submissions to the Committee, Property Industry Ireland, PII, Irish Institutional Property, IIP, and the Irish Homebuilders Association also highlighted the importance of properly resourcing planning authorities so they can adequately meet the statutory timeframes.

## RECOMMENDATIONS

5. The Committee strongly recommends that in advance of the proposed legislation coming into effect, that all local authorities be adequately and appropriately staffed and resourced to ensure the effective and efficient implementation of the LSRD process including forward planning and enforcement requirements.

## KEY ISSUE 3: REQUESTS FOR FURTHER INFORMATION

During the discussions on the General Scheme the Department advised the Committee that prior to the introduction of the SHD process, decisions on large scale housing development planning applications were often delayed by the issuing of further information requests by local authorities, with multiple such requests being issued in respect of some development proposals. The Department noted that these requests primarily relate to factors such as the capacity of existing infrastructure to service the development, impacts on adjoining developments, design issues, flood risks, and Part V requirements etc. They suggest that to avoid such delays under the LSRD process the General Scheme proposes that all these issues should be front loaded and addressed by the planning authority and the developer at pre-application consultation stage, while giving a small degree of flexibility to planning authorities by allowing for the possibility of no more than one further information request at the subsequent planning application stage.

With regard to the above, the Committee queried whether restricting or limiting the ability of local authorities to request further information on a planning application may result in further conflict if outstanding issues are unable to be teased out due to such a limitation. The Committee notes that on this matter, under Head 8 of the General Scheme, the Minister has the power to prescribe the specific issues that can be addressed by way of further information requests. Expanding on this the Committee raised concerns that if certain types of additional information are restricted from the being requested following the substantive opinion, there may be conflicts with the planning authorities' obligations under EU environmental obligations or other EU directives. Replying to this the Department advised that at the penultimate stage prior to an application there will be a final determination of what is required which will be communicate to the applicant. They noted that if significant issues or matter of conflict with policy arise, they will have to be addressed at that stage and that might be a make or break scenario for that application. They further noted that the substantive question at that point is whether it is something that can be reasonably dealt with by further information or if it is something that has to be refused. They advised the Committee that there will be clarity as to what will obviate further

information requests and noted that this is evolving to a certain extent and there might be scope for regulations in this regard.

In discussing the further information request limit with representatives from the CCMA the Committee heard that this raises significant concern. The CCMA advised that this appears to run contrary to pre-planning being without prejudice to the planning application itself. The CCMA wished to clarify that further information is only requested where a planning application has merit and has the potential to be granted permission. They remarked that in their experience there will often be good applications which have merit but which are missing something, and noted that their general approach in planning is to see if good applications can be granted, therefore they ask for clarification and further information. They voiced concerns that limiting the further information which may be requested may well lead to more applications being refused. Expanding on this the CCMA remarked that planning has become very complex over the past ten or fifteen years and planning authorities need that element of being able to ask questions, which is to the benefit of the developer also. The CMMA noted that sometimes the delays around further information requests are due to the developer getting the information back to the planning authority.

Concerns were also raised by Property Industry Ireland around the provision to restrict to scope and nature of further information requests in relation to LSRD applications, and advised that this should be carefully considered from a legal perspective given the potential for legal challenge over the interpretation of such provision.

As mentioned previously, the Committee feels that planning applicants should submit comprehensive and high-quality documentation from the earliest stages in the pre-application phase and notes that this may help to reduce the need for further information requests. The Committee suggests that the onus should not be on the local authority to be concerned with looking for further information though they are within their rights to do so when judging an application.

In light of the above, the Committee feels that restricting the ability of planning authorities to request further information on planning applications might result in

rushed or poor planning decisions, further conflict, or even applications being refused unnecessarily, and as such would recommend that this provision in the proposed Bill be amended or removed.

## RECOMMENDATIONS

6. The Committee recommends that the provision in the proposed Bill to restrict the ability of local authorities to request further information on a planning application be amended to allow for sufficient information to be requested.

## KEY ISSUE 4: NON-RESIDENTIAL MIX IN LSRDs

The Committee notes that under Head 4 of the General Scheme there is provision for up to 30% of a LSRD development to be set aside for non-residential or commercial use. It is noted that this is a change from that seen in SHD requirements, which provided for up to 15%, and this change is welcomed by the Committee. The Department advised the Committee that this provision exists as there is a need to provide mixed-use type development that are still overwhelmingly residential, but include employment space, offices, shops, commercial outlets and other facilities such as gyms as this allows for a more varied environment.

In considering this provision, the CCMA noted that the explanatory notes under Head 4 states that ‘the new LSRD arrangements will allow up to 30% of the gross floor space of the proposed development to be for commercial use’. As it not specified that this 30% might consist of uses other than commercial the CCMA highlighted their preference that this increase should be for other uses such as community, institutional and communal uses. The CCMA emphasised the benefits of such a mix as it would help to deliver on the concept of a 15-minute city and would help deliver more sustainable communities where people want to live and work.

The Committee queried whether it would be of benefit if the proposed Bill was to include a provision specifying a percentage range that should be used for non-commercial and non-residential uses such as those mentioned above. The CMMA noted that they have not suggested a particular cap or whether it should be 15% community and 15% commercial for example but advised that greater consideration should be given to such a mix if the commitment to delivering 15-minute cities is to be taken seriously.

## RECOMMENDATIONS

7. The Committee suggests that the 12-month validity of an opinion under Head 6 (10) may require some flexibility.
8. The Committee recommends that consideration be given to amending the proposed Bill to allow for the inclusion of community and institutional use, within the commercial use allowance.

## KEY ISSUE 5: MISCELLANEOUS ISSUES

### FEES

The Committee notes that Head 11 of the General Scheme provides for the Minister to set fees for LSRD planning applications, in particular at the ‘final consultation meeting’ in the LSRD process. The CMMA welcomes this provision and noted that as mentioned above the proposed process will require additional technical and administrative resourcing by planning authorities. The CCMA noted that there has not, to their knowledge, been any discussion with the Department in respect of this proposal but although it is not specified, the CCMA assume the SHD fee structure will be continued but will be amended to take account of the increased workload of local authorities and to ensure that structure is resourced. The CCMA remarked that at present there is no fee for any pre-planning service and the current fee structure



for planning only covers a small percentage of the actual cost of delivering the service.

The Construction Industry Federation remarked that they assume the structure and level of the fee is aimed at producing a greater level of efficiency and in this regard they agreed that having greater efficiency would provide a more economic, efficient and greater level of certainty within applications made at an early stage.

## RECOMMENDATIONS

9. The Committee recommends that the Department implement an appropriate fee structure for the LSRD process (pre-planning and formal application) that adequately reflects the increased workload which will be required of local authorities, and to ensure such fees are used to resource local authority planning services.

## WEBSITE

In examining the features of the SHD process that worked well, the Committee notes that a particularly useful feature was that of the dedicated website. It was highlighted that the SHD websites were of good quality and were often much easier to navigate and to see documentation and drawings than would have been the case had it been a normal Section 34 application through a local authority.

The Department agreed that this was one of the more positive and useful aspects of the SHD process and is one which they have identified as being useful and potentially very helpful to people, particularly for local communities from a public consultation perspective. Representatives from the Department advised the Committee that they are working closely with the Local Government Management Agency and the CCMA to roll out a new planning system that is currently in development, with a view to rolling this out next year. The Department noted that this

would improve the quality of the information at least from a visualisation and clarity standpoint as to drawings.

When asked should those websites continue under the LSRD process, the CCMA remarked that there is certainty in people knowing where to go when they want to see what developments are taking place in a locality and advised that they would advocate for using the standard website.

With respect to the above and due to the benefits seen from the SHD process, the Committee wishes to see a website dedicated to LSRD planning applications, similar to those used for SHD applications. To provide clarity for people accustomed to accessing planning application via the normal section 34 site, it may be beneficial to provide a link from such a location to the newer SHD-style website. Such dedicated LSRD Websites should employ search engine optimisation techniques to ensure that they are easily located and accessed when searched for.

## RECOMMENDATIONS

10. The Committee recommends that the proposed Bill require that LSRD applicants provide high quality websites dedicated to LSRD applications and the Local Authority provide a link to such a website. These dedicated LSRD Websites should employ search engine optimisation techniques to ensure that they are easily located and accessed when searched for.

11. The Committee recommends that a statutory timeline be placed on An Bord Pleanála Appeals with appropriate sanctions where the board misses these deadlines.

## RECOMMENDATIONS

### RECOMMENDATIONS

1. The Committee recommends that the proposed Bill include a requirement for all LSRD applications to be presented in public to the elected members of the relevant Local Authority and that briefing documents for these engagements be made available to the public to facilitate further engagement.
2. The Committee recommends that the proposed bill contain a requirement for public consultation at the pre-planning stage within the statutory timeframe as set out in the General Scheme. (The Committee discussed further defining the public consultation process but felt that the matter might be more fully addressed at Committee Stage of the Bill).
3. The Committee recommends that the proposed bill provide for the requirement on planning applicants to submit appropriate, relevant, complete and high-quality documentation relating to the proposal at pre-application stage.
4. The Committee recommends that all documentation submitted at the pre-application stage be made publicly available following the submission of an application under Section 34.
5. The Committee strongly recommends that in advance of the proposed legislation coming into effect, that all local authorities be adequately and appropriately staffed and resourced to ensure the effective and efficient implementation of the LSRD process including forward planning and enforcement requirements.

6. The Committee recommends that the provision in the proposed Bill to restrict the ability of local authorities to request further information on a planning application be amended to allow for sufficient information to be requested.
7. The Committee suggests that the 12-month validity of an opinion under Head 6 (10) may require some flexibility.
8. The Committee recommends that consideration be given to amending the proposed Bill to allow for inclusion of community and institutional use, within the commercial use allowance.
9. The Committee recommends that the Department implement an appropriate fee structure for the LSRD process (pre-planning and formal application) that adequately reflects the increased workload which will be required of local authorities, and to ensure such fees are used to resource local authority planning services.
10. The Committee recommends that the proposed Bill require that LSRD applicants provide high quality websites dedicated to LSRD applications and the Local Authority provide a link to such a website. These dedicated LSRD Websites should employ search engine optimisation techniques to ensure that they are easily located and accessed when searched for.
11. The Committee recommends that a statutory timeline be placed on An Bord Pleanála Appeals with appropriate sanctions where the board misses these deadlines.

## APPENDIX 1: ORDERS OF REFERENCE

### a. FUNCTIONS OF THE COMMITTEE – DERIVED FROM STANDING ORDERS [DSO 95; SSO 71]

1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

- (a) legislation, policy, governance, expenditure and administration of—
  - (i) a Government Department, and
  - (ii) State bodies within the responsibility of such Department, and
- (b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

- (a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
- (b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

- (a) for the accountability of the relevant Minister or Minister of State, and
- (b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

- (a) consents to such consideration, or
- (b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

- (a) the Committee Stage of a Bill,

- (b) Estimates for Public Services, or
- (c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,
- (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
- (c) non-legislative documents published by any EU institution in relation to EU policy matters, or
- (d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings,

the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

- (i) members of the European Parliament elected from constituencies in Ireland,
- (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
- (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof,

within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

## **b. SCOPE AND CONTEXT OF ACTIVITIES OF COMMITTEES (AS DERIVED FROM STANDING ORDERS) [DSO 94; SSO 70]**

(1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(2) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil/Seanad;

(3) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under DSO 125(1) and SSO 108(1); and

(4) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

- (a) a member of the Government or a Minister of State, or
- (b) the principal office-holder of a State body within the responsibility of a Government Department or
- (c) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

## **c. POWERS OF COMMITTEES (AS DERIVED FROM STANDING ORDERS) [DSO 96; SSO 72]**

Unless the Dáil/Seanad shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—



- (a) minutes of such evidence as was heard in public, and
  - (b) such evidence in writing as the Committee thinks fit;
- (2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil/Seanad;
- (3) power to draft recommendations for legislative change and for new legislation;
- (4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—
- (a) require any Government Department or other instrument-making authority concerned to—
    - (i) submit a memorandum to the Joint Committee explaining the statutory instrument, or
    - (ii) attend a meeting of the Joint Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Joint Committee, which may report thereon to the Dáil, and
  - (b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;
- (5) power to require that a member of the Government or Minister of State shall attend before the Joint Committee to discuss—
- (a) policy, or
  - (b) proposed primary or secondary legislation (prior to such legislation being published),
- for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Joint Committee to enable him or her to discuss such policy or proposed legislation;
- (6) power to require that a member of the Government or Minister of State shall attend before the Joint Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Joint Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;
- (7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Joint Committee in relation to the consideration of a report under DSO 197/SSO 168;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Joint Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil/Seanad; and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under DSO 120(4)(a)/SSO 107(4)(a).

## APPENDIX 2: COMMITTEE MEMBERSHIP

### DEPUTIES



Francis Noel Duffy  
*Green Party*



Joe Flaherty  
*Fianna Fáil*



Thomas Gould  
*Sinn Féin*



Emer Higgins  
*Fine Gael*



Steven Matthews  
Cathaoirleach  
*Green Party*



Paul McAuliffe  
Leas-Cathaoirleach  
*Fianna Fáil*



Cian O'Callaghan  
*Social Democrats*



Richard O'Donoghue  
*Independent*



Eoin Ó Broin  
*Sinn Féin*

## SENATORS



Victor Boyhan  
*Independent*



John Cummins  
*Fine Gael*



Mary Fitzpatrick  
*Fianna Fáil*



Rebecca Moynihan  
*Labour*



Mary Seery Kearney  
*Fine Gael*

### Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil of 30 July 2020.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 18 September 2020.
3. The Dáil Committee of Selection nominated Deputy Joe Flaherty to replace Deputy Jennifer Murnane O'Connor on 2 February 2021.

## APPENDIX 3: LIST OF WITNESSES

### Department of Housing, Local Government and Heritage

- Mr Paul Hogan, Chief Planning Adviser
- Mr Colin Ryan, Planning Division
- Mr Conor O' Sullivan, Planning Division
- Ms Ciara Gallagher, Planning Division

### County and City Management Association

- Mr Kevin Kelly, Mayo County Council
- Ms Mary Henchy, Dun Laoghaire-Rathdown County Council
- Mr Michael Rainey, Carlow County Council
- Ms Mary Conway, Dublin City Council

### Construction Industry Federation

- Mr James Benson, Director
- Mr Tom Parlon

### Irish Planning Institute

- Dr Conor Norton, President

### Dublin Democratic Planning Alliance

- Mr Robin Mandal, Chair
- Ms Marion Cashman
- Mr Ray Kenny
- Mr Sebastian Vencken

## APPENDIX 4: LINKS TO MEETING TRANSCRIPTS

- [Tuesday, 7 September 2021](#)  
[Thursday, 9 September 2021](#)

## APPENDIX 5: LINKS TO SUBMISSIONS & OPENING STATEMENTS

### OPENING STATEMENTS

- [Paul Hogan, Senior Planning Advisor, Department of Housing, Local Government & Heritage](#)
- [Mr Robin Mandal, Chair, Dublin Democratic Planning Alliance \(DDPA\)](#)
- [Kevin Kelly, Chief Executive, Mayo County Council , County and City Management Association \(CCMA\)](#)
- [James Benson, Director, Housing, Planning and Development Services, Construction Industry Federation \(CIF\)](#)
- [Dr Conor Norton, President, Irish Planning Institute \(IPI\)](#)

### SUBMISSIONS

- [Dublin Democratic Planning Alliance](#)
- [Irish Home Builders Association](#)
- [Irish Institutional Property](#)
- [Property Industry Ireland](#)
- [Association of Irish Local Government](#)

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