Conclusions of the Minister for Housing, Planning and Local Government on the Review of the Strategic Housing Development process

October 2019

Prepared by the Department of Housing, Planning and Local Government
housing.gov.ie
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Introduction

The Planning and Development (Housing) and Residential Tenancies Act 2016 (the Act), introduced new streamlined arrangements, for a limited time-period, to enable planning applications for strategic housing developments (SHDs) of 100 or more housing units, or student accommodation or shared accommodation developments of 200 or more bed spaces, to be made directly to An Bord Pleanála (the Board) for determination. The Board is then required to make a determination on such an application within a period of 16 weeks of the lodgement of the application.

The SHD provisions came into effect on 3 July 2017 and apply for an initial period, until the end of 2019.

Section 4(2)(b) of the Act provides that I may, by order, extend that period by a further limited period of 2 years, up to the end of 2021, coinciding with the timeframe of Rebuilding Ireland.

However, prior to the making of such an order, and not later than 30 October 2019, section 4(2)(a) of the Act requires that I review the operation and effectiveness of the SHD arrangements and lay before both Houses of the Oireachtas a report of my conclusions of the review.

In this regard, a Strategic Housing Development Review Group was established in June 2019 to assess the operation and effectiveness of the SHD provisions and to report back by 25 September 2019. The Report of the Review Group was received on 24 September 2019, and has been considered by myself and my Department. Accordingly, I am bringing forward this Report on my conclusions of the review, as required by the Act.

Mr Eoghan Murphy, T.D.

Minister for Housing, Planning and Local Government

30 October 2019
Background to SHD Process

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

Prior to the introduction of the SHD arrangements, a significant proportion of large-scale housing development proposals were appealed resulting, in some cases, of decision timelines of up to two years before the granting of final planning permission for such proposals.

The primary purpose of the SHD arrangements is to speed up the planning decision-making process for well-designed 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.

The broad concept of the fast-track SHD arrangements was developed by my Department, following consultation with stakeholders, as a means of enhancing the efficiency of the delivery of large-scale housing developments through the planning system by the way of the introduction of new, appropriately tailored, streamlined arrangements for such developments.

While the planning system is one of the factors in the delivery of housing, other factors such as access to capital and land are equally important. The Government is seeking to address these through a suite of measures: Help to Buy, Home Building Finance Ireland, Land Development Agency, Urban Regeneration and Development Fund, changes to heights and apartments guidelines, and engagement with sector on productivity etc.

As a result of deliberations within my Department, it was considered that streamlined arrangements in relation to the determination of planning applications for large-scale housing developments could be introduced and legislated for, largely based on the pre-existing template that was already in operation in relation to strategic infrastructure developments.
A specific action to legislate for the fast-tracking of planning decision-making for large-scale housing developments was subsequently committed to and incorporated in the *Rebuilding Ireland Action Plan*, which was published in July 2016.

The comprehensive and detailed legislative provisions in relation to the operation of the SHD arrangements were developed by the Planning Division of my Department, in consultation with the Board, having regard to its role in the operation of the scheme.

The primary legislative provisions contained in the Planning and Development (Housing) and Residential Tenancies Act 2016 were the subject of detailed debate and scrutiny in both Houses of the Oireachtas during the progression of the Bill. I subsequently signed the enabling regulations on 23 June 2017 bringing the new fast-track planning arrangements into effect on 3 July 2017.

The SHD arrangements were introduced as a temporary measure to apply for an initial period until the end of 2019, with the Minister for Housing, Planning and Local Government having the power to extend the operation of these arrangements for a further maximum period of two years, coinciding with the timeframe of *Rebuilding Ireland*. The setting of clear time-limits within which these arrangements were to operate was aimed at incentivising housing providers to activate and bring forward projects of scale at an early date with a view to facilitating earlier provision of increased housing supply.
SHD Review Group

In June 2019, a Strategic Housing Development (SHD) Review Group was established to review the operation and effectiveness of the SHD provisions and to report back by 25 September 2019.

The membership of the Review Group was as follows:

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

I met with the Review Group on 18 July 2019 to discuss its Terms of Reference.

The Terms of Reference of the Review Group outlined that the overall objective of the group was to review the operation and the effectiveness of the SHD arrangements, and prepare a report in this regard. The Review Group was also commissioned to recommend, as it saw fit, possible changes to the existing processes which could be made in order to further streamline and improve the effectiveness of the SHD provisions.

The Review Group met over the course of July to September 2019 to advance its Report. To augment the work of the Review Group, a public consultation on the SHD arrangements was advertised and held in July 2019. Almost 200 individuals and groups made submissions which were considered by the Review Group, underscoring the interest in this matter. In addition, in preparing its Report, the Review Group met with a number of key stakeholders, including the Board. The Review Group submitted its Report on its findings, along with recommendations for enhancing the existing SHD arrangements, on 24 September 2019.

I note the Report of the Review Group and thank the members of the Review Group for their work in this regard.
Summary of SHD Review Group Report

The Report of the SHD Review Group acknowledges that the SHD arrangements have generally been a success in meeting their objectives to contribute to addressing housing undersupply issues by providing a fast-track development consent process aimed at incentivising developers to bring forward applications for large-scale housing developments; and that the significant public resources invested in the arrangements have been a key factor in this regard.

At the time the Report was finalised, the Board had granted permission for a total of 12,339 housing units (houses and apartments) and 7,573 student bed spaces. In this regard, the Report notes that the SHD process will make a significant contribution to achieving the housing delivery targets outlined in Rebuilding Ireland, which provided a key contextual framework for the introduction of the SHD arrangements. However, it is the Review Group’s opinion that more could have been expected in terms of the activation of permissions and the delivery of housing given the level of public resources invested.

The Report recognises that all SHD planning application decisions made by the Board up to the end of June 2019 have been issued within the statutory timeframe of 16 weeks, with an average of 14.5 weeks being achieved. Taking into account the entire process from pre-application stage, to application stage, to final decision, the Report highlights that the SHD arrangements have achieved significant time-savings and consistency of decision making for developers of large-scale housing developments compared to the previously applicable planning application and appeals process for developments of this scale. The Report highlights also that the number of SHD planning applications being submitted to the Board is rising sharply as the development sector becomes accustomed to operating the new procedures. Furthermore, the Report asserts that the pre-application process is a worthwhile mechanism, involving the teasing out of issues at an early stage, resulting in higher quality applications and developments.

Notwithstanding the positive contribution the SHD arrangements have made, the Review Group is cognisant of the fact that there continues to exist a deficit in housing supply. Therefore, the original rationale for the introduction of the SHD arrangements remains. The
Review Group acknowledges that significant public resources have been invested in the arrangements, resulting in all SHD planning applications being decided within the streamlined statutory timeframes. In this regard, the Review Group contends that any interruption to the SHD decision making process poses a danger of jeopardising supply.

In light of these main findings, the Review Group considers that there are sufficient grounds for extending the SHD arrangements until the end of 2021, as allowed for in the Act.

However, the Review Group is of the view that while the SHD arrangements have generally been a success in providing a fast-track development consent process for developers of large-scale housing developments, the number of SHD permissions that have commenced development is less than might have been expected, given the public resources put into the arrangements and the benefits provided for developers in terms of time-savings and consistency of decision making. The Review Group highlights that, of the 49 SHD permissions granted between January 2018 and 30 June 2019, only 18 (37%) had been activated in some way, either through enabling works or commencement of housing construction. While the majority of the SHD permissions granted are less than one year old, and this could be a relevant consideration regarding the current low activation rate, the Review Group recommends that the Department should continue to monitor the rate of activation of SHD permissions for a further period and if the activation rate does not increase to circa 80%, consideration could be given to the introduction of a policy measure such as a “use-it-or-lose-it” provision to incentivise the commencement of works.

Furthermore, in light of reports that developers may be engaging in project-splitting practices, dividing large sites into developments of less than 100 units, to avoid engaging with the SHD arrangements and instead seeking planning permission from the relevant local planning authority, the Review Group recommends that consideration be given to increasing the threshold for residential developments from 100 to 200 units, and that developers of sites between 100 and 200 units in metropolitan areas or key towns be allowed to avail of either the SHD process or the normal section 34 planning permission process, as they choose. With regard to the SHD thresholds, the Review Group further recommends that the percentage of commercial or other non-residential uses allowed as part of an SHD planning application be
increased from the current 15% to 20%, so as not to mitigate against development in major urban locations.

The Review Group also focussed on operational issues arising from the implementation of the SHD arrangements, in line with its Terms of Reference. In addition to the foregoing matters, the Review Group makes a number of further recommendations for my consideration relating both to operational matters, as well as some further legislative matters, to streamline and enhance the existing SHD arrangements. All 22 recommendations of the Review Group and my considered response to same is set out in the Appendix to this Report.
Minister’s Conclusions Arising from Review

I have considered the Report of the SHD Review Group on the effectiveness and operation of the SHD arrangements. I note and welcome the overall conclusion of the Review Group that the process is considered to have operated well in practice and to have been successful in its objective to provide a fast-track planning process with the aim of expediting the delivery of housing supply within a short timeframe, in line with the objectives of Rebuilding Ireland.

The Report makes a numbers of recommendations regarding operational and legislative matters and I address each of these recommendations individually in the Appendix to this Report. My Department will engage directly with the Board regarding recommendations concerning operational matters. I will address the legislative matters either through the next available Planning and Development Bill which I will be bringing forward or through secondary legislation, as appropriate.

In order to ensure the SHD arrangements were implemented efficiently and effectively the Department made significant resources available to the Board in this regard. A dedicated additional 10 posts, as identified by the Board, were sanctioned by the Department to the new Strategic Housing Division and these staff are in place since 2017. Two additional Board Members were also provided.

The SHD Division within the Board has functioned as envisaged and up to the end of June 2019 had delivered on the statutory requirement to decide all SHD development consent application decisions within 16 weeks, thereby providing a more expeditious development consent process for developers of large-scale housing developments.

Since the new arrangements came into operation, i.e. from 3 July 2017 to 30 September 2019 (period for which latest figures are available), the Board has received 234 valid pre-application consultation requests in respect of which 219 opinions have been issued (1 pre-application was subsequently withdrawn), with further opinions to issue in 2019. The Board has subsequently received 126 planning applications and has issued decisions in respect of 96 cases to date – 69 granted, 1 part-granted and 25 refused, with 1 refused following a judicial review. 95 decisions were issued within the mandatory 16-week timeframe, with one decision made outside this timeframe due to an Oral Hearing being held. In summary, the Board has
to end September 2019 granted permission for a total of 16,195 residential dwellings (5,410 houses and 10,785 apartments) and 7,573 student bed spaces.

Furthermore, I note from the Board’s 2018 Annual Report and Financial Statements that the total number of planning cases (normal planning appeals, SHD planning applications, etc.) decided by it in 2018 increased by 32% on the previous year. This increase, coupled with the Board effectively deciding all SHD planning applications within the statutory timeframes, shows that the Board has a robust system in place for overseeing the SHD process, that it is operating efficiently overall notwithstanding this additional workload and that the resources invested in it were well placed.

**Extension of SHD Arrangements**

I acknowledge the finding of the Review Group that the SHD arrangements have contributed to improving housing supply in the country within a short timeframe, in line with *Rebuilding Ireland*. However, there remains an undersupply of housing, particularly in urban areas, and consequently, the original justification for the introduction of the SHD arrangements remains. Therefore, I concur with the finding of the Review Group that there exists sufficient grounds for the extension of the SHD arrangements for a further limited period of two years until the end of 2021, as provided for in the Act. Arising from this primary conclusion, I propose to shortly sign an order to this effect.

In this connection, it should be noted that the SHD arrangements were never intended to be a permanent development consent process, as is clear from the setting of the limited timeframe in *Rebuilding Ireland*. Accordingly, I have no plans at this time to bring forward primary legislation to provide for the extension of the SHD arrangements beyond the current maximum timeframe of end 2021. It is hoped that by signalling this at this time, developers of large-scale housing developments will be further incentivised to engage with the existing SHD arrangements before they ultimately expire at the end of 2021.

**Activation of SHD Permissions**

I particularly note the finding of the Review Group regarding the lower than anticipated activation rates on foot of SHD permissions granted to date. Given the benefits for developers
with regard to time-savings and consistency in decision making, and taking into account the significant public resources invested in the SHD arrangements, I consider it appropriate that developers should be sufficiently motivated to commence development on foot of an SHD permission, in order to ensure the objectives of the SHD arrangements are more clearly met. Taking account of the relatively lower than expected activation rate of SHD permissions to date, and with a view to reducing the scope for the potential hoarding of sites with SHD permissions for the purpose of increasing site values, and notwithstanding the Review Group’s recommendation to continue monitoring the activation rate for a further period, I consider that it would be timely to introduce a “use-it-or-lose-it” measure now. Arising from the introduction of such measure, developers in receipt of an SHD planning permission will be required to commence a certain level of development works within 18 months of the grant of permission, otherwise the permission will lapse.

**SHD Thresholds**

I note the recommendation of the Report that I should consider increasing the thresholds for entering the SHD process from 100 to 200 for residential schemes and that certain schemes between 100 and 200 units have the option of being assessed for permission under either the SHD process or the normal section 34 planning application process. While I intend extending the SHD arrangements for a further two-year period as provided for in the Act, I do not propose to alter the thresholds mid-scheme given the short timeframe the process will continue to run for and the potential confusion this would cause.

**Commercial Use in SHDs**

However, I am open to increasing the amount of commercial or other non-residential use that may be provided for as part of a mixed use development in urban locations. In this regard, the Act provides currently that, subject to certain conditions, the cumulative gross floor area of either houses or student accommodation units, or both, comprise not less than 85% of the gross floor space of the proposed development. In line with the recommendation of the Review Group, I will look to amend this figure to 80% (in effect, increasing the percentage of mixed used development allowed from 15% to 20%) in the context of the next available Planning and Development Bill which I will be bringing forward.
Public Participation in SHD Procedures

With a view to providing some additional time for members of the public, community groups and elected members to input to, and submit comments on, SHD planning applications, I propose to introduce some streamlining of the existing SHD arrangements so that interested parties will have access to the planning application documents at the earliest opportunity, thereby enhancing public participation in the SHD process. This will involve some changes in operational practices by the Board, as well as some minor legislative changes which will be incorporated in the next available Planning and Development Bill which I will be bringing forward.
Next Steps

Having laid my conclusions on the review of the operation and effectiveness of the SHD arrangements before the Houses of the Oireachtas as required by the Act, I will sign an order, before the end of the current year, to extend the SHD arrangements to 31 December 2021.

At the same time, I will consider making any changes required to primary legislation, and secondary legislation as necessary, including the introduction of the ‘use-it-or-lose-it’ provision and increasing the percentage of commercial or other non-residential use allowed as part of an SHD planning application, in the context of the next available Planning and Development Bill which I will be bringing forward. My Department will engage with the Board regarding the recommendations concerning operational matters.
Appendix – SHD Review Group Recommendations

A complete list of all 22 recommendations of the SHD Review Group and my considered response to same is set out below.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>The SHD process should be extended until December 2021, preferably modified as outlined below.</th>
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<tr>
<td>Ministerial Response</td>
<td>I agree with this recommendation and consider that there are sufficient grounds for extending the SHD arrangements for a further limited period of two years until the end of December 2021. As such, and further to section 4(2)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (the Act), I will sign an order, before the end of the current year, in this regard.</td>
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<tr>
<th>Recommendation</th>
<th>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 granted.</th>
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<tr>
<td>Ministerial Response</td>
<td>Taking account of the relatively lower than expected activation rate of SHD permissions to date, and notwithstanding the Review Group’s recommendation to continue monitoring the activation rate for a further period, I consider that it would be timely to introduce a “use-it-or-lose-it” measure now. Arising from the introduction of such measure, developers in receipt of an SHD planning permission will be required to commence a certain</td>
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level of development works within 18 months of the grant of permission, otherwise the permission will lapse.

While further detail in connection with the new measure will have to be worked out, it is envisaged that many of the requirements will be similar to those provided for in section 42 of the Planning and Development Act 2000, as amended, regarding the extension of duration of planning permissions.

**Recommendation 3**

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<tr>
<th>Recommendation 3</th>
<th>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.</th>
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**Ministerial Response**

I agree with this recommendation. This practice is already provided for in legislation and should continue to be applied.

Under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in considering the likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the strategic housing development, the Board is required to have regard to any local area plans, if relevant, notwithstanding any overriding “specific planning policy requirements” which may be pertinent.

**Recommendation 4**

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<th>Recommendation 4</th>
<th>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</th>
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(b) undertake specific work-force planning to ensure that adequate staffing levels are provided and that other planning functions are not adversely impacted.

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<th>Ministerial Response</th>
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<tr>
<td>I agree with this recommendation and understand that An Bord Pleanála (the Board) actively monitors its overall workload and undertakes appropriate workforce planning on a regular basis.</td>
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With regard to the implementation of the SHD arrangements, my Department made significant resources available to the Board in this regard. A dedicated additional 10 posts, as identified by the Board, were sanctioned by my Department to the new Strategic Housing Division and these staff are in place since 2017. Two additional Board Members were also provided.

My Department provides an annual grant to the Board to assist with its running costs. The additional salary costs of staffing this new Division and providing for the additional Board Members has resulted in an increase of over €800k of the Board’s annual running costs, with additional indirect costs from the increase in staff numbers. However, the SHD process brought in approx. €900K in fees in 2018 and over €1.4m in fees to date in 2019, which the Board has used to offset its running costs.

The Board currently undertakes workforce planning every two years. Its current workforce plan details the resource requirements in 2019 and 2020 to manage its anticipated caseload (primarily planning but also under other codes) and address the priorities set out in the Board’s Strategic Plan. The workforce plan for 2019-2020 has been agreed between the Board and my Department and makes provision for an additional 16 posts in the Board.
To end September 2019, the Board has managed to make all but one decision (due to the holding of an Oral Hearing) on Strategic Housing Development planning applications within the statutory timeframe, whilst managing a 32% increase in the total number of planning cases (normal planning appeals, SHD planning applications, etc.) decided in 2018 on the previous year; indicating that the Board is functioning effectively notwithstanding the additional workload arising from the SHD arrangements.

| 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.

| Ministerial Response | With regard to Recommendations 5(a) and 5(b), while I intend extending the SHD arrangements for a further two-year period, as allowed for in the Act, I do not propose to alter the thresholds mid-
scheme given the short timeframe the process will continue to run for and the potential confusion this would cause.

With regard to Recommendation 5(c), I am open to increasing the amount of commercial or other non-residential use that may be provided for as part of a mixed use development in urban locations. In this regard, the Act provides that, subject to certain conditions, the cumulative gross floor area of either houses or student accommodation units, or both, comprise not less than 85% of the gross floor space of the proposed development. I will amend this figure to 80% (in effect, increasing the percentage of mixed use development allowed from 15% to 20%), in the context of the next available Planning and Development Bill which I will be bringing forward.

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<th>Recommendation 6</th>
<th>The facility for submitting a SHD planning application within a Strategic Development Zone should be removed.</th>
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<tr>
<td>Ministerial Response</td>
<td>I agree with this recommendation. Planning applications for large-scale housing developments within a Strategic Development Zone (SDZ) must be decided within an 8-week period. This is a significantly shorter timeframe than the 16-week statutory timeframe applicable to SHD planning applications. In the interests of ensuring that large-scale housing developments are decided within as short a timeframe as possible so as to expedite the delivery of housing supply, and in order to ensure that all development consent applications within an SDZ accord with the applicable SDZ Planning Scheme, I consider it appropriate that all planning applications for large-scale housing developments within an SDZ should be submitted through the SDZ planning process only.</td>
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Therefore, I will look to remove the facility for submitting an SHD planning application within an SDZ in the context of the next available Planning and Development Bill which I will be bringing forward.

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<th>Recommendation 7</th>
<th>Legislation should be amended to provide for a period of at least four weeks for arranging the tripartite [pre-planning] consultation meeting and for preparation of the information to be sent by Planning Authorities to the Board in advance of that meeting.</th>
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**Ministerial Response**

I agree with this recommendation. The Act provides currently that each planning authority concerned has two weeks from the date the Board notifies them that it has accepted a request from a prospective applicant for a tripartite consultation to prepare information to be sent by them to the Board.

I will consider amending the Act to provide that the Board must notify each planning authority concerned as soon as it has validated a request from a prospective applicant for a tripartite meeting, and such planning authorities will have four weeks from this date to prepare information to be sent by them to the Board.

This will be considered in the context of the next available Planning and Development Bill which I will be bringing forward.

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<th>Recommendation 8</th>
<th>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.</th>
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| **Ministerial Response** | I accept this recommendation. Based on its experiencing operating the SHD process to date, the Board could look to run more workshops and seminars for developers and professionals, and provide more detailed feedback at these events. My Department will engage with the Board in this regard. |

| **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. |

| **Ministerial Response** | I agree in principle with this recommendation and consider it important that there is sufficient clarity in the Board’s Opinions. The wording of an Opinion issued by the Board should be sufficient to alert prospective applicants if some or all of their proposal is likely to prove unacceptable. Furthermore, where there is a potential red line issue, this should be more clearly highlighted. My Department will engage with the Board on this recommendation. |

| **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 [dedicated] SHD section of its weekly list of applications and decisions. |
**Ministerial Response**

I agree in principle with this recommendation and believe it is important that the general public have sufficient notification and time to consider an SHD planning application and to make a submission to the Board if they wish to do so.

As such, I will look to amend the existing procedures to provide that the Opinion of the Board is available on the website of each planning authority concerned, along with a link to the Developer’s website where a copy of the plans and other details lodged at the consultation meeting will be provided.

This will be considered in the context of the next available Planning and Development Bill which I will be bringing forward.

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**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.

**Ministerial Response**

I agree in principle with this recommendation and will consider amending article 297 of the Planning and Development Regulations 2001, as inserted by the Planning and Development (Strategic Housing Development) Regulations 2017, to provide that prospective applicants are required to seek a Statement of Design Acceptance from Irish Water before submitting an SHD planning application to the Board.

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**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.
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<tr>
<th>Ministerial Response</th>
<th>I agree with this recommendation and will look to amend the legislation to provide that the Board may invite prescribed bodies responsible for the provision of infrastructural facilities to attend tripartite meetings as it deems necessary, on a case-by-case basis. This will be considered in the context of the next available Planning and Development Bill which I will be bringing forward.</th>
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<td>Recommendation 13</td>
<td>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 weeks to facilitate these proposed extended time limits.</td>
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<td>Ministerial Response</td>
<td>I agree with the general thrust of this recommendation. However, I consider that the statutory period of 16 weeks for making a decision on an SHD application is appropriate in light of the stated objectives of the SHD arrangements and should not be extended. With a view to providing some additional time for members of the public, community groups and elected members to input to, and submit comments on, SHD planning applications, I propose to introduce some streamlining of the existing SHD arrangements so that interested parties will have access to the planning application documents at the earliest opportunity, thereby enhancing public participation in the SHD process. This will involve some changes in operational practices by the Board, as well as some minor legislative</td>
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changes which will be incorporated in the next available Planning and Development Bill which I will be bringing forward.

| Recommendation 14 | (a) The Board should consider convening an oral hearing 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 applicant to re-submit without having to repeat the entire pre-application consultation process. |

| Ministerial Response | With regard to recommendation 14(a), the Act currently provides that the Board may hold an Oral Hearing on an SHD planning application where it considers this to be appropriate and I understand that the Board has previously done so on a couple of occasions.  

With regard to recommendation 14(b), I agree in principle with this recommendation and, subject to obtaining legal advice, will consider providing that the Board may include an Advisory Note in its decision, allowing the applicant to submit proposals for the satisfactory resolution of such ‘technical’ issues and, should they be agreed, to indicate that the application may be resubmitted within one year without the need to re-enter the pre-application process. Consideration will also be given to providing that, subject to the application being resubmitted within a specified period, for instance six months, a reduced application fee could apply, thereby incentivising early re-engagement. |
This will be considered in the context of the next available Planning and Development Bill which I will be bringing forward.

| 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. |

| Ministerial Response | I agree with recommendations 15(a) and 15(b) and will look to amend the Planning and Development (Strategic Housing Development) Regulations 2017 in this regard.  
|                    | With regard to recommendation 15(c), under the planning process, the hardcopy and the digital copy have equal standing. While I am ultimately looking at introducing a mechanism whereby all planning applications may be made exclusively in ‘electronic form’, I am not minded at this time to provide that a digital copy of an SHD planning application should take precedence over the paper copies. I consider it more appropriate that where an inadvertent discrepancy is identified, the Board should be able to request the applicant to provide such further information as it considers necessary to clarify the matter.  
|                    | This will be considered in the context of the next available Planning and Development Bill which I will be bringing forward. |
### 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.

**Ministerial Response**

I agree with this recommendation and will look to amend the Act to provide that the Board may, on request of the applicant, alter the terms of an approved SHD development, where the Board considers the alterations to be non-material amendments to the development concerned.

The precise detail of this mechanism will be considered in the context of the next available Planning and Development Bill which I will be bringing forward.

### 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.

**Ministerial Response**

With regard to recommendation 17(a), my Department will consult further with planning authorities regarding the introduction of a statutory time limit for planning authorities to respond to submissions regarding compliance with points of detail relating to a grant of planning permission. Planning authorities should be able to comply
with such statutory time limit from within their existing resources through further streamlining of their operational procedures.

With regard to recommendation 17(b), I agree with this recommendation and I understand that the Board does this as a matter of course. My Department will engage with the Board in relation to this recommendation.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>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.</th>
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<tr>
<td>Ministerial Response</td>
<td>Further to my response to Recommendation 10, while I agree in principle with this recommendation, the Board’s website does not have the capacity at this time to provide the detail of SHD planning applications on it. The Board is engaged currently in a project (PLEAN-IT) to upgrade its ICT capabilities, including its website capacity, and it is considered that a period of at least 12 months will be required before its website is capable of handling files of the size associated with SHD planning applications. My Department will continue to engage with the Board in relation to this recommendation. However, as an interim measure, I will look to amend the legislation to require the Board to provide its Opinion, along with a link to the developer’s website on its website. This will be considered in the context of the next available Planning and Development Bill which I will be bringing forward.</td>
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| 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).
| Ministerial Response | I agree with this recommendation.
| | The Planning and Development (Amendment) Act 2018 provides for the legislative underpinning for electronic planning (ePlanning) to facilitate the introduction of online planning applications, appeals and payments. These provisions will also require supporting regulations which will be developed prior to full rollout of ePlanning (further information is provided in my response to Recommendation 20).
| | In this regard, the review of the regulations, which will take into account the requirements of the Board with regard to the submission of documents, is ongoing to enable submission of documents in electronic format.
| | The Board’s ICT and Business Transformation Strategy (PLEAN-IT) project is intended to deliver an efficient, IT-enabled organisation providing a fully digital service for the public including online submission of cases, payment of fees and review of documentation. PLEAN-IT will significantly enhance the service offered by the Board and improve the efficiency of the organisation. One of the key benefits |
anticipated from the project is an improved service to the public as a result of more efficient processing of cases and, in particular, the introduction of web-based services; which should address this recommendation.

**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.

**Ministerial Response**

I agree with this recommendation.

The Planning and Development (Amendment) Act 2018 provides for the legislative underpinning for electronic planning to facilitate the introduction of online planning applications, appeals and payments. These provisions will also require supporting regulations which will be developed prior to full rollout of ePlanning.

Currently, article 22(3) of the Planning and Development Regulations 2001 as amended allows individual local authorities to consent for the submission of electronic applications.

To ensure a consistent approach to the submission of electronic applications to Local Authorities, work is advancing through the Local Government Management Agency with the support of my Department for the development of the new ePlanning system.

ePlanning will be a central portal for the submission of documents relating to planning applications and the payment of fees. The arrangements being developed aim to enable individuals to log into
this online portal and view documentation for planning applications in all Local Authorities. This will provide a central, online planning application document facility and provide consistent access to information irrespective of which Local Authority the planning application relates to.

Development of the software is advancing and piloting of the system will take place in one Local Authority in late 2019/early 2020 with a subsequent rollout of the programme across the rest of the local government sector.

The review of the Planning and Development Regulations is ongoing to enable submission of documents in electronic format. This review will be informed by the Pilot project with finalisation of the updated regulations before the roll out of ePlanning to all Planning Authorities.

The review of the regulations will also take into account the requirements of the Board with regard to the submission of documents. The updated IT systems will allow for the lodging of applications, submissions and making of payments in electronic form.

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<tr>
<th>Recommendation 21</th>
<th>The Board should initiate one or more forums in which planning professionals involved in the SHD process could share information and best practice.</th>
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<tr>
<td>Ministerial Response</td>
<td>I agree with this recommendation. I understand that the Board already organises fora for the exchange of information and practice regarding the SHD arrangements. However, further to my response to Recommendation 8, the Board could look to run more workshops and seminars for developers and</td>
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professionals, and provide more detailed feedback at these events. My Department will look to engage the Board in this regard.

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<tr>
<th>Recommendation 22</th>
<th>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.</th>
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<tr>
<td>Ministerial Response</td>
<td>I agree in principle with this recommendation. The precise elements of SHD ‘best practice’ that might be adapted for use within the normal section 34 planning permission process, including the development of pilot projects in this regard, will be examined in consultation with relevant stakeholders, to include certain planning authorities, the Board and the Office of the Planning Regulator.</td>
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