



Future Analytics

LARGE-SCALE RESIDENTIAL DEVELOPMENT

A SNAPSHOT OVERVIEW OF THE
NEW PLANNING APPLICATION
PROCESS

JULY 2022

A REVISED PROCESS

Large-scale Residential Development (LRD) planning application process now in place



Dual-track arrangements in place temporarily (SHD and LRD planning application processes)



LRD non-residential gross floor area now 30% (was 15% in SHD)



LRD process requires s247 pre-planning AND 'LRD pre-app' with Planning Authority



LRD process provides a time-bound consultation process with PA before lodgement



"Material Contravention" process reverts to traditional route



>An LRD Opinion lasts for 6 months
> Upon lodgement of application – 8 weeks for decision



Request for Further Information has been reintroduced for PA's and, in limited circumstances, ABP



>Appeal step restored (to ABP)
>ABP has 16 weeks to determine appeal



CONTENTS

1. LEGISLATIVE CHANGES
2. PROCEDURAL CHANGES
3. PRACTICAL CHANGES
4. IN SUMMARY
5. FUTURE OBSERVATIONS

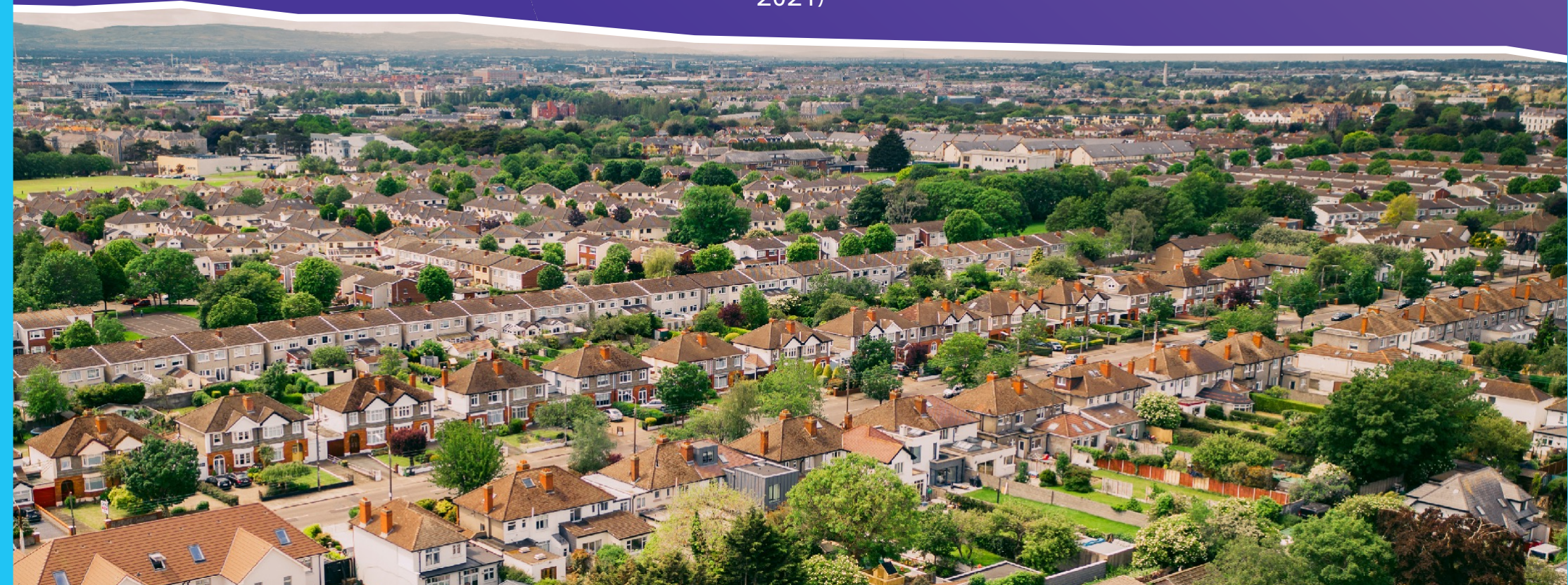


LEGISLATIVE CHANGES

Planning and Development (Amendment) (Large-scale Residential Development) Act, 2021 (Commencement) Order 2021 (SI 715 of 2021) became effective from 17 December 2021

The Regulations underpinning the LRD system are the: Planning and Development (Large-scale Residential Development) Regulations 2021 (SI 716 of 2021), and Planning and Development (Large-scale Residential Development Fees) Regulations 2021 (SI 720 of 2021)

Restores the two-stage planning process – the Planning Application Stage and the Appeal Stage



WHAT IS A LARGE-SCALE RESIDENTIAL DEVELOPMENT (LRD)?

An LRD is a development on land, the zoning of which facilitates its use for the purposes proposed in the application, that includes:



100

or more houses;



200

*or more student
accommodation
bed spaces;*



100

*or more houses
and student
accommodation
bed spaces;*



BOTH

*student
accommodation of
200 or more bed
spaces and houses;*

With at least 70% of the proposal comprising residential development – LRD Floor Space disregards any floor space provided for the parking of vehicles and ancillary residential services including gyms and child-care facilities.

LRD PROCESS INVOLVES 2 STAGES

STAGE 1: PLANNING

Pre-application Consultation Stage:

- » 247 pre-application consultation
- » LRD Meeting with the Planning Authority (PA)
- » Receive an LRD Opinion from the Planning Authority

Planning Application Stage:

- » Lodge a Planning Application
- » 5 week period for public observations
- » Receive one of the following decisions within 8 weeks:
 - » Grant of Permission
 - » Refusal of Permission
 - » Request for Further Information in limited circumstances (2 month response period – up to 6 months if request relates to AA or EIA to be agreed by Planning Authority)

STAGE 2: APPEAL

Appeal Stage:

- » An LRD application appealed to ABP must be decided within 16 weeks
- » Receive one of the following within 16 weeks:
 - » Request for Further Information in limited circumstances (2 month response period – up to 6 months if request relates to AA or EIA to be agreed by the Board)
 - » Grant of Permission
 - » Refusal of Permission
 - » Request for an Oral Hearing

AMENDMENT APPLICATIONS

The LRD Act removes the current mechanism for amending an existing SHD permission under section 146B of the PDA.

For LRD proposals which propose to amend previously permitted LRDs or SHDs, the planning authority may make a determination under the new section 247(7) that, as the proposed development is substantially the same as the previously permitted development, further pre-application consultations are not required in respect of the development.



SAMPLE TIMEFRAME – CASE STUDY 1

A standard LRD planning application is lodged relating to a development of 100 houses where the Planning Authority do not request Further Information. The decision of the Planning Authority to grant permission for the development is appealed to An Bord Pleanála



Preparation of a S.247 pack - estimated 4 weeks



S.247 Meeting – Meeting held within 4 weeks



Preparation and lodgement of LRD meeting pack – estimated 8 weeks



PA hold an LRD meeting within 4 weeks



PA issue an LRD Opinion within 4 weeks



Design Team prepare and lodge full LRD application – estimated 12 weeks



Decision within 8 weeks (*including 5 week public consultation period*)



Appeal window – 4 weeks



Appeal to ABP – Decision within 16 weeks

Up to 64 weeks (assumes efficient Design Team timescales)

SAMPLE TIMEFRAME – CASE STUDY 2

A standard LRD planning application is lodged relating to a development of 100 houses where the Planning Authority request Further Information in relation to a technical matter unforeseen at the time of the LRD Opinion. The decision of the Planning Authority to grant permission for the development is appealed to An Bord Pleanála



Preparation of a S.247 pack - estimated 4 weeks



S.247 Meeting – Meeting held within 4 weeks



Preparation and lodgement of LRD meeting pack – estimated 8 weeks



PA hold an LRD meeting within 4 weeks



PA issue an LRD Opinion within 4 weeks



Design Team prepare and lodge full LRD application – estimated 12 weeks



Decision within 8 weeks (*including 5 week public consultation period*)



Further Information submitted within 2 months (maximum)



Planning Authority issue a decision within 4 weeks



Appeal window - 4 weeks from decision date



Appeal to ABP – Decision within 16 weeks

Up to 76 weeks (assumes efficient Design Team timescales)

SAMPLE TIMEFRAME – CASE STUDY 3

A LRD planning application is lodged relating to a development of 550 houses accompanied by an Environmental Impact Assessment Report where the Planning Authority request Further Information. The decision of the Planning Authority to grant permission for the development is appealed to An Bord Pleanála who, prior to issuing a decision, request Further Information pertaining to EIA matters.



Preparation of a S.247 pack - estimated 4 weeks



S.247 Meeting – Meeting held within 4 weeks



Preparation and lodgement of LRD meeting pack – estimated 8 weeks



PA hold an LRD meeting within 4 weeks



PA issue an LRD Opinion within 4 weeks



Design Team prepare and lodge full LRD application – estimated 12 weeks



Decision within 8 weeks (*including 5 week public consultation period*)



Further Information submitted within 2 months (maximum)



Planning Authority issue a decision within 4 weeks



Appeal window - 4 weeks from decision date



Appeal to ABP – Decision within 16 weeks



FI Submitted within 6 months



ABP issue a decision within 8 weeks of FI Notice being complied with

Up to 94-108 weeks (assumes efficient Design Team timescales)

PRACTICAL CHANGES

SECTION 247 MEETING (PRE-APPLICATION CONSULTATION)



S.247 meetings must now be held within 4 weeks of the request for a meeting by the prospective applicant



Similarly to the SHD process, applicants are required to provide the PA “such information as it may reasonably require in relation to a proposed LRD for the purpose of the section 247 consultation.”



Where the Planning Authority consents, the request may be made in electronic form



PRACTICAL CHANGES

LRD MEETING REQUIREMENTS



More specific requirements, including: details in relation to infrastructure capacity, Traffic & Transport assessment, Daylight & Sunlight Assessment & Risks of Major Accidents and Ecological Impact – all specifically mentioned.



SHD system required the applicant to provide a statement showing how the proposal will be “consistent” with the DP. The LRD system requires the application to provide a statement setting out how the proposal has “had regard to” the DP.



PA are required to provide a list on their website once a week of the pre-applications received and a list of the opinions they have issued.



The PA will make a determination about whether the application “constitutes a reasonable basis on which to make an application” for the proposed LRD based on the detail in the LRD meeting request pack.

PRACTICAL CHANGES

LRD MEETING



In the event that the PA does not convene a meeting within 4 weeks, they shall proceed to convene the LRD meeting “as soon as practicable”, and provide the applicant with a written explanation why the LRD meeting did not take place in the specified period.



In the event that the PA does not issue an LRD Opinion within 4 weeks, they shall proceed to do so “as soon as practicable”, and provide the applicant with a written explanation as to why it failed to provide the LRD opinion in the specified period.

PRACTICAL CHANGES

WHO SHOULD ATTEND THE MEETING?



The Planning Authority (PA)



The prospective LRD applicant
and one or more persons on
his or her behalf



PA may consult with “any
person who may, in the
opinion of the planning
authority, have information
that is relevant for the
purposes of the LRD meeting
in relation to a proposed
development.”



PA shall ensure that planning
authority officials attending
the meeting on its behalf have
a sufficient level of relevant
knowledge and expertise in
the matter concerned

LRD OPINION FROM PA – SHOULD BE SPECIFIC

Where the application does not constitute a reasonable basis on which to make an application for permission, the Opinion must specify:



the areas, or the issues, in respect of which the documents submitted do not constitute a reasonable basis on which to make the application, and



any issues that, if addressed by the relevant documents, could result in the documents constituting a reasonable basis on which to make the application.



NOTABLE APPLICATION REQUIREMENTS

The Requirement to prepare a Website
– Expiring 8 weeks following the receipt of the decision from the Planning Authority (8 weeks following the receipt of an appeal decision from ABP)

Fee structure follows the SHD process:



LRD STRUCTURE FEE

Class of Development	Amount of Fee <i>(note that the maximum fee payable by an applicant in respect of an LRD application shall be €80,000)</i>
Pre-Application Consultation Fee	€1,500
Full Application Fee	€130 per housing unit
	€7.2 per m2 to maximum of €32,400 for non-residential development
Submission of an EIS	€10,000
Submission of an NIS	€10,000

Once the application is lodged, the PA must notify the Elected Members under s.34(1B)

Full list of requirements can be found in the Planning and Development (Large-Scale Development) Regulations, 2021

DECISION FROM PLANNING AUTHORITY



Grant of Permission



Refusal of Permission



Request for Further
Information reintroduced

SPECIAL REQUIREMENTS FOR FURTHER INFORMATION



Technical Matters



Environmental
Matters



Matters that were
unforeseen at the
time of the LRD
Opinion



New matters raised
through public
participation

APPEAL STAGE

ABP are required to make a decision on the appeal of an LRD application within 16 weeks.

As per the planning application stage the Board may only request Further Information in relation to matters of a technical or environmental detail, that were unforeseen at the time of the LRD opinion and at the time of lodging the application or new matters raised through the appeal public participation process

ABP to determine appeal within 4 weeks of the FI notice being complied with (within 8 weeks of the FI notice being complied if the application is accompanied by an EIAR or EIS)

Failure to comply with this requirement will result in a fine of €10,000 for ABP, payable by ABP to the applicant.



CHANGES TO THE JUDICIAL REVIEW PROCESS

Any party to a judicial review challenge may apply to have a High Court Judgement referred directly to the Supreme Court, by-passing the Court of Appeal

“where the decision is of such exceptional public importance that it is in the public interest to allow such an appeal.”



IN SUMMARY

HEADLINE COMPARISONS TO THE SHD PROCESS



Decision making for LRD type applications to be returned to the local planning authority (PA), with the subsequent right to appeal to An Bord Pleanála (ABP)

Definition of LRDs and SHDs is largely the same. However, the two main changes:

Non-residential gross floor area permissible in an LRD has been changed from 15% to 30%

Mixed developments combining housing and student accommodation to be classified as an LRD where the threshold is met for either element.

Student Accommodation may not be used as permanent residential accommodation or as a hostel or hotel but can be used as tourist accommodation outside of the academic term

No shared living accommodation under the LRD process

IN SUMMARY

HEADLINE COMPARISONS TO THE SHD PROCESS



Where the Planning Authority consents, the s.247 request can be made in electronic form

LRD Opinion lasts for a period of 6 months

Changes to requirements for applications within an SDZ

Return of the s.34 public participation procedure – 5 Weeks to make a submission to the PA

Use of the application website maintained

Fee structure is the same as the SHD Process

Request for further information has been reintroduced

Material Contravention to revert to pre-SHD Legislation – ABP can materially contravene a development plan

**WHAT CAN WE
EXPECT WITH THE
NEW PROCESS**



FUTURE OBSERVATIONS



Teething issues in the transition from SHD to LRD and the “bedding in” of new processes



Clarity in terms of which PAs will accept pre-application requests in electronic form



An insight into the level of detail that can be requested as further information, given that an applicant has 2 months to respond



The potential bridging of gaps between:

Local, Regional and National Planning Policy

Development Plan Policy Objectives and Section 28 Ministerial Guidelines

Applicant, Planning Authority and An Bord Pleanála



The application of policy, insight gleaned through SHD decision-making trends and outcomes from JR judgements will all inform LRD pursuits



THANK YOU!



ALAN CRAWFORD

MIPI

Associate Director

alan.crawford@kpmg.ie



MARIA ROCHFORD

MIPI

Associate Director

maria.rochford@kpmg.ie



STEPHEN M. PURCELL

MIPI FSCSI FRICS

Director & Co-Head

stephen.purcell@kpmg.ie