25th October 2019

Ms. Éilis Fallon,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2.

Your ref: PAC32-I-1602

Re: Further information arising from An Bord Pleanála’s appearance before the Committee on 3rd October 2019

Dear Éilis,

I refer to your letter of 9th October, confirming the issues raised during the Board’s session with the Committee for response. We have endeavoured to provide information under each of the numbered items in your letter, with supporting documentation and references as needed.

In the first instance, before proceeding to address each element, it should be noted that the following two items in the Committee’s list:

- **No. 3**: number of instances where a Minister has invoked section 181 powers to grant permission, and

- **No. 6**: gender balance considerations in the Board nomination process

may be more appropriate to be addressed by the Department, as An Bord Pleanála does not have any information or role in respect of the two questions above. Obviously, where a Minister of the Government may invoke those *in extremis* powers, such planning applications would not come before the Board for consideration. Secondly, it is the Department who oversees the appointment of Board members in line with the statutory provisions under the Planning and Development Acts and other policy considerations. Accordingly, the Committee may wish to follow up directly with the Department on these issues.
Please note the following information and explanations in relation to the other queries.

In relation to your **first two queries** regarding the breakdown of decisions made by the Board in 2018 and the number and category of cases which the Chairperson considered to be appropriate to bring to a full Board, as set out in the Planning and Development Act 2000 (as amended), a quorum for a meeting of the Board shall generally be three persons. Accordingly, in order to optimise the available resources within the Board and to ensure the efficient and timely consideration and determination of normal planning appeals by the Board, it is common practice for the scheduling of quorum Boards to consider normal planning appeals. This is evidenced by the significant percentage of quorum meetings held during 2018, comprising approximately 88% of all meetings held, with the balance of meetings (12%) conducted with either all available Board members, or through the separate Board Divisions for Strategic Infrastructure Developments and Strategic Housing Developments.

As outlined at the Committee session, it is the prerogative of the Chairperson to consider whether any planning application or appeal should be brought to a meeting of the full Board or all available Board members. Furthermore, it is open to an ordinary Board member chairing a normal quorum Board meeting to also decide to refer a case to the full available board meeting, where warranted. While such referrals can relate to any planning case before the Board, this provision is generally invoked where there is a significant proposal, either in scale, complexity or which might set precedent, and where the Chairperson assesses that the matters would benefit from consideration by the full range of expertise available within the Board. Recent examples of case types that have been considered by the full available Board include Strategic Development Zone Planning Scheme proposals, major industrial and infrastructure projects, high-rise city-centre developments, as well as consideration of new appeal case types which have come under the Board’s remit, such as vacant site levy appeals, to ensure that there is a shared, consistent and robust understanding of the legislative provisions relating to those new case types.

In relation to **Query 4** seeking an update on the current status of the 101 recommendations as they relate to An Bord Pleanála, outlined in the *Organisational Review of An Bord Pleanála* (February 2016), we are preparing a comprehensive tabular update report on the status of implementation and follow-up on those specific recommendations within the Review Group’s report that fall within the remit of the Board. In order to ensure that we provide as up-to-date a status report on the 80+ recommendations across the full range of issues covered in the Organisational Review, An Bord Pleanála will aim to forward its update to the Committee as soon as possible over the coming weeks. For information and ease of access, the full report is available at the following weblink:
In relation to **Query 5**, seeking information on the categories of respondents to the consultation on An Bord Pleanála's website, it should be noted that this “user experience, user interface” (UX/UI) process to inform the design of the Board’s new website and web portal is still ongoing. We have engaged an external company to look at our website and advise on best practice in context of customer service and user expectations and that part of its remit includes seeking user/public feedback through focus groups and user testing. The company has also been engaging with other regular users of our services, including with planning agents who often represent individual members of the public as well as with community-represented organisations such as An Taisce. It is expected that their final recommendations will reflect the full range of users of the Board’s services and will inform the design of an accessible and easily navigable website in due course.

The Board makes every effort to seek the views and feedback of all users or potential users of its website, including members of the general public. Recognising the high volume of “hits” on the Board’s website (for example, there were over 244,000 hits in June 2019 alone, with the majority of those seeking information on new or decided planning cases), we have been monitoring and analysing this website activity to identify how we can improve the level of information and its useability. We have also worked with the Plain English project under the National Adult Literacy Agency, to simplify our information leaflets and the web text. Furthermore, we have actively sought views from all our users (normally through newspaper notices and our website) to input to our five-year Strategic Plan, and received valuable inputs from a number of individuals as well as other users and organisations. Our Communications Unit has also met with some other public organisations (e.g. Met Éireann, Department of Foreign Affairs and Trade) who have high-volume websites to learn from their experiences and embed best practices into both our current website and the design of the new one.

More generally, in the context of developing its current Customer Action Plan as well as its previous Statement of Strategy, An Bord Pleanála invited general public feedback on its services by way of public advertisements (in both official languages) in national newspapers and notices on its website. Those notices also provided an invitation to complete a comprehensive customer service questionnaire, available on the website or in hard copy form on request, which specifically sought feedback on the Board’s website. In this context, the Board also wrote out to all local and regional authorities, all other prescribed bodies under the Planning and Development Acts and associated regulations and to a sample of planning agents (selected on a geographical basis), directly inviting written submissions from those persons.
In relation to Query 7, we have included in the appendix to this letter resumé details of each of the current Board, which are also available to view on the An Bord Pleanála website at the following link: [http://www.pleanala.ie/about/members.htm](http://www.pleanala.ie/about/members.htm).

In relation to Query 8 regarding the breakdown of where the Board decision did or did not accept the inspector's substantive recommendation to grant or refuse permission, the inspector’s recommendation was accepted by the Board in approximately 89% of cases decided in 2018, with the recommendation not accepted in the remaining 11% of cases. This would be broadly in line with trends in previous years.

Regarding Query 9 on the number of strategic infrastructure decisions granted or refused, over the five-year period 2014 to end-2018, applications for strategic infrastructure development as defined in the Planning Acts were the subject of formal decisions in 80 such applications, with 84% of such applications being granted and 16% refused.

In response to Query 10, seeking information of the number of cases with An Bord Pleanála for more than a year, there are currently 74 cases with An Bord Pleanála for over a year. 46% of these cases relate to pre-application consultation requests where the prospective applicant does not wish at this point to close that process, and recognising that An Bord Pleanála does not have any statutory power to unilaterally close the pre-application consultation process in such circumstances. Just over a quarter of the 74 cases (26%) are referral cases, the bulk of which involve complex legal issues concerning what is or is not development or exempted development. The remaining 28% of the cases generally relate to proposed development which involves complex planning and associated environmental issues as a consequence of the nature, including scale and location, of the proposed development e.g. quarry developments, major infrastructure. In many of these cases, there are requirements to seek further information from the applicants or appellants, to hold oral hearings and to circulate additional material received by the Board to ensure that all participants in the process have an opportunity to comment and inform the Board’s ultimate consideration of the issues. Invariably, where such further information requests, oral hearings and cross-circulation of materials are facilitated, these cases tend to exceed the statutory objective period.

In response to Query 11, there were oral hearings held in respect of nine planning appeal cases in 2018, with the planning authority decision upheld in 8 cases and the appeal dismissed in the other case.

Finally, in relation to Query 12 and available data regarding cases where a board decision contravened a county development plan, while An Bord Pleanála does not collect or maintain statistics in relation to instances where its decisions contravenes
or materially contravenes a development plan, it is satisfied that it fully complies with the statutory requirements in any case where such circumstances arise.

To provide some context, section 37(2) of the Planning and Development Act 2000, as amended, provides that the Board may, in determining a planning appeal, decide to grant a permission even if the proposed development contravenes materially the development plan of the planning authority in whose area the proposed development would be situated. This same logic would apply where a Board decision would involve a contravention of such a development plan where that contravention is not considered a “material” contravention.

However, this section also provides that, where a planning authority has itself already decided to refuse permission on the grounds that a proposed development materially contravenes its development plan, the Board may, on appeal, only grant permission where it considers that –

(i) the proposed development is of strategic or national importance,
(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,
(iii) permission for the proposed development should be granted, having regard to the regional spatial and economic strategy for the area, Ministerial guidelines issued under section 28 of the Act, Ministerial policy directives issued under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government or any minister of the Government, or
(iv) permission for the proposed development should be granted, having regard to the pattern of development and permissions granted, in the area since the making of the development plan.

Furthermore, where the Board does grant a permission under the above provisions, the Board is required to indicate in its decision the main reasons and considerations for contravening materially the development plan.

I hope that this information is helpful in addressing the Committee’s queries. We will endeavour to forward the remaining information to you as expeditiously as possible.

Yours sincerely,

Dave Walsh
Chairperson
Appendix

An Bord Pleanála – Current Board Member Resumés

<table>
<thead>
<tr>
<th>Name</th>
<th>Commencement of Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Dave Walsh, Chairperson</td>
<td>October 2018</td>
</tr>
<tr>
<td>Mr. Paul Hyde, Deputy Chairperson</td>
<td>May 2014</td>
</tr>
<tr>
<td>Mr. Philip Jones</td>
<td>May 2014</td>
</tr>
<tr>
<td>Dr. Maria FitzGerald</td>
<td>July 2017</td>
</tr>
<tr>
<td>Ms. Terry Prendergast</td>
<td>August 2017</td>
</tr>
<tr>
<td>Mr. John Connolly</td>
<td>September 2017</td>
</tr>
<tr>
<td>Mr. Terry Ó Niadh</td>
<td>September 2017</td>
</tr>
<tr>
<td>Ms. Michelle Fagan</td>
<td>February 2018</td>
</tr>
<tr>
<td>Mr. Stephen Bohan</td>
<td>June 2018</td>
</tr>
<tr>
<td>Mr. Chris McGarry</td>
<td>February 2019</td>
</tr>
</tbody>
</table>

Dave Walsh was appointed Chairperson of An Bord Pleanála for the period of seven years in October 2018. He previously served as Assistant Secretary in the Department of Housing, Planning and Local Government, with primary responsibility for planning policy (including development and delivery of the National Planning Framework) and housing market and rental policy, with a key focus on coordinated implementation of the Government's Rebuilding Ireland Action Plan for Housing and Homelessness. Prior to this, Dave headed up the Department's Environment and Climate Division, leading Ireland's and the EU negotiations on climate change during Ireland's 2013 EU Presidency which ultimately led to the adoption of the Paris UN Climate Change Agreement in 2015. In a civil service career spanning 23 years in the Custom House, he also had policy responsibility for a wide range of areas, including national waste policy, environmental legislation and compliance with EU environmental law, spatial planning policy, franchise, and local government. A graduate of Trinity College with a Single Honours BA in the Classics (Ancient Greek and Latin), Dave also has a Higher Diploma in Education (TCD) and a M.Sc. in Economic Policy (TCD/IPA).

Paul Hyde (BSc. Arch, MA, MPlan, MRIAI) was appointed to the Board in May 2014. He was appointed Deputy Chairperson of An Bord Pleanála in January 2019 for a further term. He was previously the managing partner of the Hyde Partnership, a multi-disciplinary design and planning practice. He also formerly served as a member of the Board of the Irish Marine Institute. Paul has a wide experience of administration and management as well as industry specific experience including implementing master plans, complex commercial design projects and managing...
varied private and semi-public projects within the UK and Irish planning and construction sector. He has more than 20 years professional experience in a diversity of roles including practice manager, architect, planner, development consultant, project manager and advisor. He is a member of the RIAI and IPI professional institutes. He holds a Degree in Architecture (TCD), a Master’s Degree in Planning (UCC) and a Post Graduate Diploma in Marine Spatial Planning (UU). Paul has attended Harvard Business School in the area of effective corporate governance and completed a leadership program at the Institute of Public Administration.

Philip Jones was appointed to the Board in May 2014, for a five-year term. This term was extended by the Minister for a further 18 months until October 2020. He is a professional town/spatial planner. He has a Master's Degree in Urban and Regional Planning from UCD, and a Diploma in Legal Studies from DIT. He is a Fellow of the Irish Planning Institute, having served on its national Council for over 22 years, and served as its President for two terms in 1999 – 2001. Prior to his appointment to the Board, Philip had 34 years' experience as a planner in a variety of public sector organisations, having served as Assistant Planner and then City Planner for Waterford City Council for 6 years (1980 – 1986), County Planner for Kildare County Council for 13 years (1986 – 1999), and worked with An Bord Pleanála from 1999, initially as Senior Planning Inspector and from 2007 to 2014 as Assistant Director of Planning.

Dr. Maria FitzGerald was appointed to the Board in July 2017 for a five-year term. She is a senior professional with expertise in the management and co-ordination of environmental and heritage inputs to a wide range of national infrastructure projects. Prior to her appointment, Maria was the Railway Order Co-ordinator with Transport Infrastructure Ireland (TII) for the New Metro North Project. Maria studied archaeology and history at UCD and graduated with a BA (1989) and MA in archaeology (1991). She furthered her archaeological studies at Manchester University and Manchester Metropolitan University where she subsequently completed a specialist MA (1994) and a PhD in archaeology (2000). More recently she completed a Professional Diploma in EIA and SEA Management at UCD (2010) and a BSc in Environmental Management at Sligo IT (2014).

Terry Prendergast was appointed to the Board in August 2017 for a five-year term. She is a professional planner and corporate member of the Irish Planning Institute. She has wide ranging professional and academic experience in Ireland and abroad. Her most recent role has been as Principal Planner with the Grangegorman Development Agency, in conjunction with lecturing in Planning with the Dublin Institute of Technology. She has previously been employed as an Inspector with An Bord Pleanála and has worked with the Dublin Docklands Development Authority and a variety of planning authorities. She has been awarded a BSc in Environmental
Economics from DIT, an M Phil in Urban Design and Regional Planning from the University of Edinburgh and an MSc in Sustainable Development from DIT.

John Connolly has a Bachelor's degree in Civil Engineering from UCC and a Master's Degree in Business Administration from NUIG. He is a Chartered Engineer and Fellow of Engineers Ireland, and was a Director of the Irish Waste Management Association for 14 years. He was also a member of IBEC's Environmental Policy Committee and a former chair of its Resource Efficiency Working Group. He worked for over 30 years in Senior Management positions in Bord na Môna, most recently in the areas of infrastructure development and regulatory/policy affairs.

Terry O'Niadh was appointed to the Board of An Bord Pleanála with effect from the 4th September 2017. He has served as North Tipperary County Manager for 10 years (May 2000 - April 2010), six years as Kildare Assistant County Manager (April 1994 – April 2000) and eight years as Wicklow County Secretary, (June 1986 - April 1994). He was a Non-Executive Director of the VHI, the North Tipperary Leader Partnership Company and a Member of the Audit Committee of the Department of Environment, Community and Local Government. He holds a MA Degree in Public Affairs and Political Communications (Dublin Institute of Technology), a BA Degree in Public Management (Institute of Public Administration), a Certificate and Diploma in Company Direction (Institute of Directors) and attended the Leadership Programme at the Kennedy School of Government, Harvard University.

Michelle Fagan Dip Arch, B Arch Sc, MRIAI, was appointed to the board in February 2018. Michelle is a registered Architect with Grade 3 conservation accreditation. Prior to her appointment she was a founding director of FKL architects, an award-winning architecture practice since 1998, and has been practicing architecture in Germany and Ireland since graduating from Architecture in DIT in 1990. She has been involved in architectural research, exhibitions and has lectured nationally and internationally. Michelle previously taught in Architecture in DIT and in UCD. She has served on the RIAI council for 10 years, including serving two years as RIAI president.

Stephen Bohan was appointed to the Board of An Bord Pleanála with effect from June 2018. His most recent role was Senior Engineer with Roughan & O'Donovan Consulting Engineers. He has worked as a Senior/Resident Engineer on numerous multi-million-euro civil engineering construction schemes throughout Ireland, including major roads & bridges infrastructure projects implemented by Transport Infrastructure Ireland (TII) and various Local Authorities. He has also worked on civil engineering projects in the UK, Australia and in the Middle East. He holds a BSc (Hons) degree in Quantity Surveying from the University of Central England and a BEng (Hons) degree in Civil Engineering from Ulster University. He also holds postgraduate diplomas in Environmental Engineering and in Computers for
Engineers both from Trinity College Dublin and is a member of the Institution of Engineers of Ireland.

Chris McGarry was appointed to the Board in February 2019. He is a member and former Chairman of the Royal Town Planning Institute and a member of the Irish Planning Institute. He has a Bachelor of Science (Hons) Degree in Environmental Planning, a Post Graduate Diploma in Town and Country Planning and a Diploma in Environmental Impact Assessment Management, and has over 28 years professional planning experience in Ireland. Previous roles include: Head of Planning at the National Asset Management Agency, Head of Planning at Glenveagh Properties Plc, along with roles in planning consultancy. Chris has also occasionally lectured on planning law for the NUI Certificate in Architectural Professional Practice and Practical Experience. He has also served as a former Board member and Vice-Chair of Clúid Housing Association.