

To :

Stephen Matthews, Chair of Oireachtas the Committee on Housing, Local Government and Heritage
Ann Marie Lynch, Clerk of the Oireachtas Committee on Housing, Local Government and Heritage

Date 28th June 2021

Dear Members of the Housing Committee,

As an alliance of resident associations and other experts, we are pro-development. In this housing crisis, we must ensure that we build the right housing at the right price in the right places – quality, not just quantity, is the least that we should plan for and build. We are not doing that.

Sustainable communities are in all our interests and must be at the heart of government policy if we are to address Ireland's changing demographics, population, income inequality and climate.

We see that our cities and communities are being destroyed through a planning system that is increasingly and detrimentally altered under the pressure from private developers and institutional investment funds interested only in short-term gains. Meanwhile, democratically designed Development Plans are being undermined and hollowed out.

Specifically, the undemocratic and unsustainable changes to our planning system are facilitated by the implementation and continuation of planning legislation that was introduced in a well-intended, but misguided attempt to ease the housing crisis. Introduced at the behest of the property industry, this legislation was based on the false premise that the planning process was slowing down the delivery of housing. This has never been the case, as the attached graphs (Figure 1 & 2) verifies.

The legislation that has failed is:

- 1 Strategic Housing Developments (SHD) and
- 2 Ministerial Guidelines - Section 28.1.(c), in particularly directives on Build-to-Rent (BTR) and Height

The legislation has, in fact, slowed down the delivery of housing, as developers use the process to increase land values, rather than construct homes. Shovel-ready sites, with planning permission, are not being built upon, as the owners seek more numbers of units. Of the approximately 70,000 units that have been permitted, only some 7,000 are under construction. About the same number of units are in proposed developments subjected to judicial reviews, which have skyrocketed in number since the enactment of the aforementioned legislation and are a symptom of a planning system that increasingly excludes the citizen's voice.

There is a fundamental democratic problem in the legislation, where Development Plans are over-ruled and the right to appeal to a planning decision to An Bord Pleanála has been removed. These are the causes of social alienation that we are seeing and to the consideration, by the ordinary citizen, of recourse to judicial review.

Our suggested solutions are :

- Repeal Strategic Housing Developments (SHD) before its expiration in Feb 2022. Prevent the introduction of an alternative replacement. Restore planning decisions to properly resourced Local Authorities, with mandated decision deadlines
- Repeal Section 28.1(c), the Special Planning Policy Requirements (SPPRs), which over-rule any Development Plans that have been made by City and County Councils
- Ensure that the Housing Need Demand Assessments are made by Local Authorities prior to the planning authority deciding on permissions.
- Observe the Århus Convention for the citizen in the planning process
- Prevent the introduction of legislation which would limit the right of the citizen to access the courts. This is currently being lobbied for by the property industry, at a time when, between SHD grants and normal planning grants, there is permission in place for more than 120,000 homes.

We present our case overleaf, and trust you will take our views on board. If possible, we ask that we might present to you in person. Further information is available on our website at www.ddpa.ie

Yours faithfully,

Robin Mandal (Chair), Marion Cashman (Vice-Chair), Ray Kenny (Treasurer) & Sebastian Vencken (Secretary)

Strategic Housing Developments

Issues in Principle

- **Ineffective and destructive**
 - SHD **undermines the certainty, efficiency and efficacy** of the planning system in Ireland
 - An Bord Pleanála was established as an appeals board. Removal of the **first line of scrutiny** by a Local Authority and vesting all decision-making power into the Board is inappropriate.
 - **Duplication of Effort:** Requires detailed assessment by both the Local Authority and ABP
 - **Extraordinarily expensive:** In order to justify the material contraventions through SPPRs that are now part of the attraction of the process for developers, the quantity of reports justifying the breaking of the rules is extraordinary. It costs somewhere between €500,000 and €1,000,000 to make a planning application.
 - **One-sided:** The plethora of reports justifying the proposed over-developments are paid for by the applicant. They should be carried out by experts who are not agents of the developer.
- **Ignores Local Needs**
 - Local Area Development plans set out the vision for a locality and provide guidelines regarding developments. SHD renders **democratically-agreed development plans** (which are the subject of public consultation and voted on by elected representatives) useless
 - **Mono-use:** Focused solely on housing, it ignores an assessment of a community as a whole regarding educational, social, sporting, environmental and infrastructural facilities.
- **Democratic Deficit:**
 - **Diminution of rights** by removal of the appeals process, a core procedure in just societies
 - Contributions are needed for sustainable communities – SHD **discourages public participation**
 - Inappropriate **privately-hosted domains**, rather than a formal public Governmental website, containing full disclosure (eg public observations and Chief Executive reports)
 - **No visibility** for the citizen of other submissions – all controlled by the developer
- **Legality:**
 - Breaches the EU enshrined concept of “**subsidiarity**”, which is the principle that the best decisions are made at the most local competent level.
 - Lack of right to appeal does not comply with the EU’s legally binding **Aarhus Convention**
 - **Constitutional** legality is questionable in our opinion and is open to challenge.
- **Poor Planning Decisions:**
 - Each application is considered **piecemeal**, without looking at the needs of an locality as a whole, or the **compounding impact** of multiple applications.

Practical Implications

- **Quantum of Applications and Judicial Reviews (JRs):**
 - A jump from 85 SHD permissions in Jan 2021 to 189 at this point – We foresee an **avalanche of applications** in the run-up to its expiration in Feb 2022.
 - Inevitable **increase in Judicial Reviews**. The need to secure €80k a time evidences the level of frustration in communities. That frustration should be addressed by Government.
 - The number of JRs brought by Local Authorities demonstrates their discontent over ABP’s decisions that override the development plans and their vision of a community. This **erosion of power** is leading to morale issues and demotivation of Local Authority planning staff
- **Proven to be ineffective:**
 - 90% of JRS have quashed decisions, evidencing the system is not fit-for-purpose
 - Original objective to **fast-track planning has not been met**. Standard planning can be completed in 38 weeks. While ABP has achieved its mandated 16-week decision period, the end to end process for an SHD is 42 weeks.
 - Grants of planning have **not translated into properties being built**. Our research shows less than 7,000 houses and apartments were under construction in May 2021 (Figure 3)
 - Complete disregard for development plans. Almost all recent planning permissions granted/applied for contain “**material contraventions**”, which will inevitably trigger more reviews. (Figure 4).

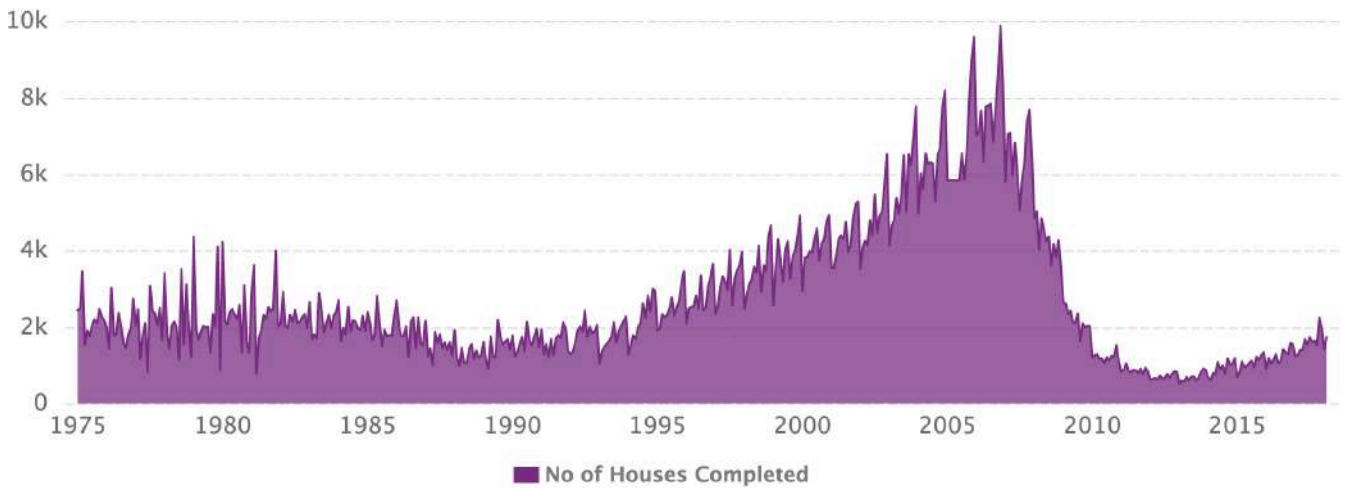


Figure 1

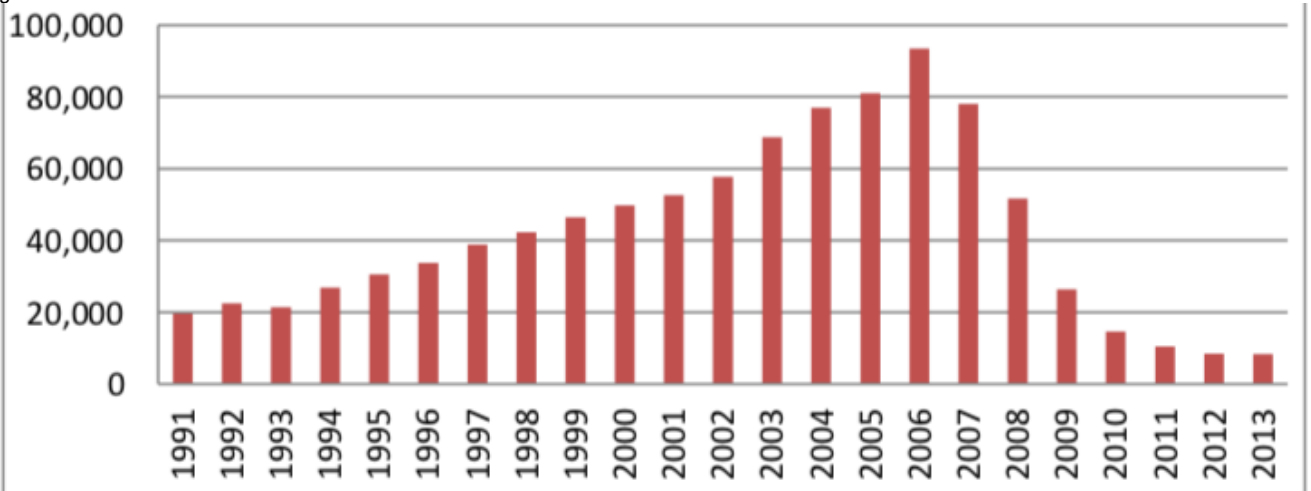


Figure 2

Data from DOHLGH, verifying that there is no link between the time for planning and the delivery of housing

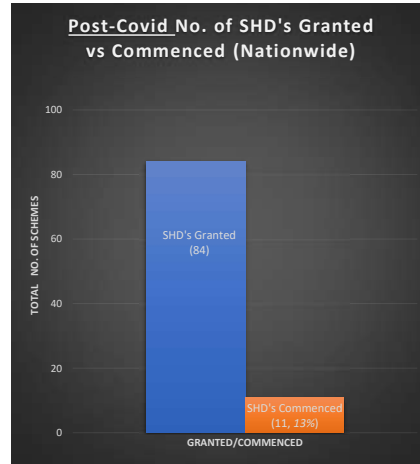
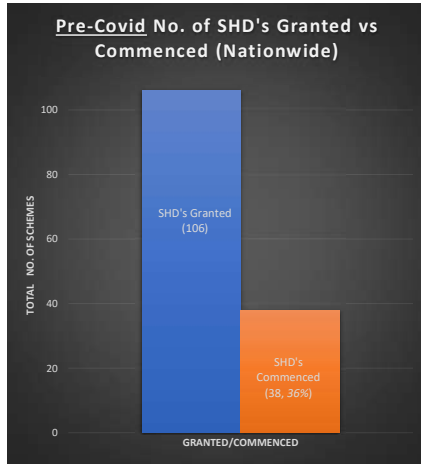
Case No.	Description of Development	Date Received	Last Day for Submission	Application Website	Decide By Date	Stat	Shared	Amend	G/R/Q/W	RIS	ES	JR	ABP Link	Court Judgments
210101	276 no. residential units (137 no. houses, 139 no. apartments), creche and associated site works.	7/5/2021	13/6/2021	www.dohlg.gov.ie	26/9/2021	276							http://www.dohlg.gov.ie	
210114	Demolition of existing buildings on site and part of the granite wall along Dunbram Road, including Metal Hall, construction of 231 no. apartments, childcare facility and associated site works.	6/5/2021	6/6/2021	www.dohlg.gov.ie	25/9/2021	231							http://www.dohlg.gov.ie	
210111	262 no. apartments, former James's Warehouse, Brickfield House, Brickfield Drive, Dublin 3.	30/4/2021	3/5/2021	www.dohlg.gov.ie	18/9/2021	328				Y			http://www.dohlg.gov.ie	
210105	Demolition of existing structures, construction of 243 no. student lodges and associated site works.	30/4/2021	3/5/2021	www.dohlg.gov.ie	18/9/2021	243				Y			http://www.dohlg.gov.ie	
210103	428 no. Build to Rent apartments, childcare facility and associated site works.	30/4/2021	3/5/2021	www.dohlg.gov.ie	18/9/2021	428				Y			http://www.dohlg.gov.ie	
210102	Demolition of existing social structures, construction of 30 no. Build to Rent apartments, 226 no. student lodges and associated site works.	30/4/2021	3/5/2021	www.dohlg.gov.ie	18/9/2021	326				Y			http://www.dohlg.gov.ie	
210078	165 no. residential units (105 no. houses, 60 no. apartments), creche and associated site works.	28/4/2021	1/6/2021	www.dohlg.gov.ie	17/8/2021	165				Y			http://www.dohlg.gov.ie	
210072	740 no. apartments and associated site works.	28/4/2021	1/6/2021	www.dohlg.gov.ie	17/8/2021	240				Y			http://www.dohlg.gov.ie	
200889	117 no. residential units (25 no. houses, 81 no. apartments, 51 no. duplex units) and associated site works.	23/4/2021	25/5/2021	www.dohlg.gov.ie	10/8/2021	137				Y			http://www.dohlg.gov.ie	
200916	Demolition of the existing buildings, construction of 178 no. Build to Rent apartments, creche and associated site works.	9/4/2021	13/5/2021	www.dohlg.gov.ie	28/7/2021	170							http://www.dohlg.gov.ie	
200907	Demolition of Tully Agha and associated outbuildings, construction of 411 no. residential units (102 no. houses including preservation of Agha House and 309 no. apartments), childcare facilities and all other associated site works.	6/4/2021	12/5/2021	www.dohlg.gov.ie	28/7/2021	411				Y	Y		http://www.dohlg.gov.ie	
200816	203 no. residential units (109 no. houses, 94 no. apartments), creche and associated site works.	31/3/2021	6/5/2021	www.dohlg.gov.ie	19/7/2021	203				Y			http://www.dohlg.gov.ie	
200826	241 no. apartments and associated site works.	30/3/2021	5/5/2021	www.dohlg.gov.ie	19/7/2021	241				Y			http://www.dohlg.gov.ie	
200828	445 no. Build to Rent apartments, creche and associated site works.	28/3/2021	4/5/2021	www.dohlg.gov.ie	19/7/2021	445							http://www.dohlg.gov.ie	
200907	Demolition of 4 no. dwellings (Blackwinds, Woodlawn, No. 43 Wuzen Road and No. 46 Wuzen Drive), construction of 255 no. residential units (7 no. houses, 248 no. apartments), childcare facility and associated site works.	25/3/2021	28/4/2021	www.dohlg.gov.ie	14/7/2021	255							http://www.dohlg.gov.ie	
200721	Demolition of existing industrial and commercial buildings, construction of 1,184 no. apartments, creche and all other associated site works.	18/3/2021	22/4/2021	www.dohlg.gov.ie	8/7/2021	1104				Y			http://www.dohlg.gov.ie	
200668	275 no. apartments, creche and associated site works.	12/3/2021	14/4/2021	www.dohlg.gov.ie	30/6/2021	275				Y			http://www.dohlg.gov.ie	
200618	Demolition of existing buildings, construction of 171 no. apartments, creche and associated site works.	10/3/2021	13/4/2021	www.dohlg.gov.ie	28/6/2021	171							http://www.dohlg.gov.ie	
200612	Demolition of the existing Park Shopping Centre and nos. 42-45 Pravia Street, construction of 173 no. residential units (3 no. houses, 29 no. apartments and 140 no. student lodges) and associated site works.	10/3/2021	13/4/2021	www.dohlg.gov.ie	28/6/2021	184		32					http://www.dohlg.gov.ie	
200612	Demolition existing buildings on site, construction of 188 no. apartments and associated site works.	8/3/2021	12/4/2021	www.dohlg.gov.ie	28/6/2021	188				Y			http://www.dohlg.gov.ie	
200612	138 no. apartments, childcare facilities and associated site works.	8/3/2021	12/4/2021	www.dohlg.gov.ie	28/6/2021	138							http://www.dohlg.gov.ie	
200608	475 no. apartments, creche and associated site works.	5/3/2021	8/4/2021	www.dohlg.gov.ie	24/6/2021	475				Y			http://www.dohlg.gov.ie	
200521	Demolition of some existing structures comprising The Goat Centre and elements of the existing structure of The Goat Bar and Grill, construction of 299 no. apartments, childcare facility and associated site works.	26/2/2021	1/4/2021	www.dohlg.gov.ie	17/6/2021	299				Y			http://www.dohlg.gov.ie	
200413	578 no. residential dwellings (785 no. houses, 783 no. apartments).	26/2/2021	30/3/2021	www.dohlg.gov.ie	15/6/2021	578				Y			http://www.dohlg.gov.ie	

Figure 4

Recent screenshot of SHD applications, showing "Material Contraventions" to development plans in yellow

SHD's Commencement Tracker

SHD's Commenced Nationwide



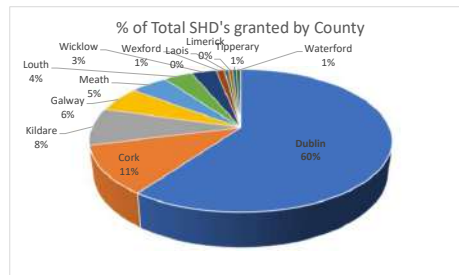
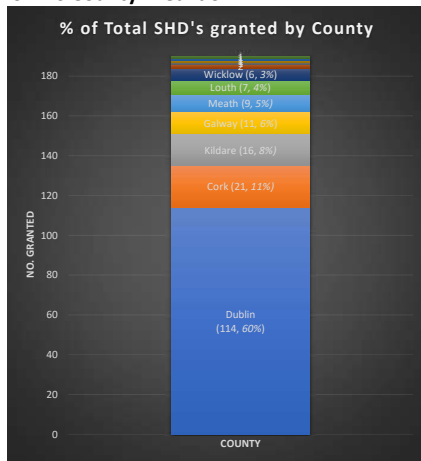
No of Units Commenced Pre Covid

No.	No. of units Approved			No. of Units Commenced			
	Houses	Apts	Student	Yes/No	Houses	Apts	Student
Total	8366	20138	6613		1773	4050	1252
% Commenced					21%	20%	19%
Grand Tot	35,117				7,075		
					20%		

No of Units Commenced Post Covid

No.	No. of units Approved			No. of Units Commenced			
	Houses	Apts	Student	Yes/No	Houses	Apts	Student
Total	4,271	15,951	3,590		129	777	834
% Commenced					3%	5%	23%
Grand Tot	23,812				1,740		
					7%		

SHD's County Breakdown



SHD's Commenced Dublin (Excl. site & development works)

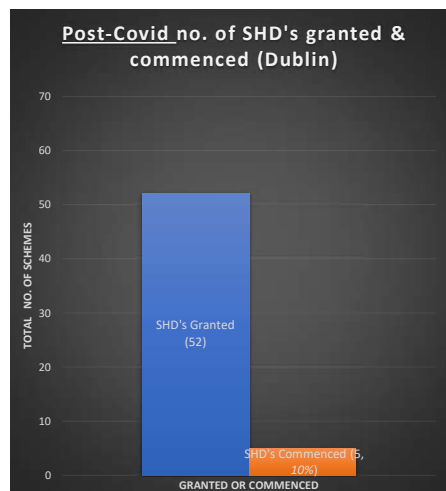
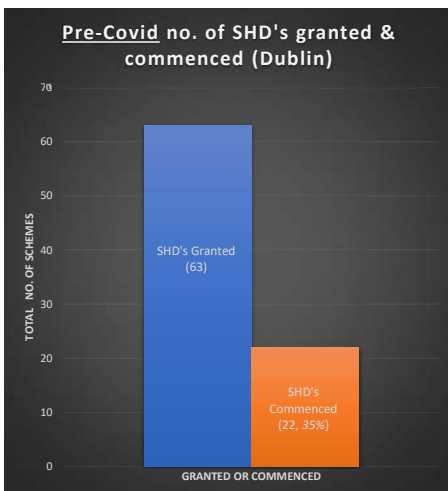


Figure 3:
 Data prepared by ddpa based on commencements notices and site inspections in April 2021

Section 28.1 (c) – Build-to-Rent (BTR)

Issues in Principle

▪ Unsustainable

- The concept (professionally managed apartments which encourage long-term rental) is admirable. However the reduced standards result in:
 - Reduction in **overall space**
 - Less **storage** space
 - Decrease in **private open space**
 - Reduction in **car-parking** provision and
 - Allowing single-aspect units mean the developments are **not appealing for long term living**.
- The schemes will **attract a transient occupant**, which is not conducive to **sustainable communities**
- 3-bed has been proven to be the most versatile design – suitable for families, young couples, house-share or downsizing. Removing the requirements to provide a proportion of **3-bed or more** will not allow for a **social mix**, which is a tenet of good place-making and decent society
- Likewise, BTR inherently means there is **not a mix of tenure** – also necessary for place-making
- There is a lack of clarity over what will occur when the **initial 15 – 25 year period lapses**.

▪ Quality

- The **diminution of standards** leads to poor quality housing
- Permitting an excessive number of **studios**, will not provide decent accommodation
- The composition and reduced standards make the schemes **unappealing for families**, elderly, disabled and many other groups in society
- Permitting a **reduction in public space** make schemes both **unhealthy and unattractive**. More importantly, the provision to allow a **financial contribution in lieu** of public open space, especially in the light of Covid, when the provision of more open space is so badly needed.
- Negating the need to provide **car-parking** - although commendable - is not entirely practical

Practical Implications

▪ Perception of Apartments

- If cities are to expand, we need to change the perception of apartments. Elsewhere, they are deemed suitable for long-term living by many groups in society, including families. Here, thanks to the **shoe-box schemes** of the 1990s, they are seen as a short-term housing solution, suitable only for a particular point in an individual's life. Low BTR standards are exacerbating this concept
- Furthermore, the recent legislation introduced to deter **cuckoo funds** from purchasing complete schemes did not apply to apartments. Another example of where an apartment is not seen as a “home”

▪ Poor Planning Decisions

- An avalanche of BTR applications – A very high proportion have been BTR, and it continues to grow. This demonstrates that allowing the **market to dictate** what is built will not deliver what is actually needed.
- Potential home-owners are being deprived of the **opportunity to buy**
- Many proposals have been **gated communities** – a concept which is not conducive to sustainability
- The lack of **infrastructure** to accommodate the increases in numbers will lead to problems in the immediate future.

Ministerial Guidelines - Section 28.1 (c) – Height *Issues in Principle*

▪ Deficit in Democracy

- National Guidelines have **no upper height limit**. Democratically-agreed Local Area Development plans are rendered useless

▪ Lack of Justification

- The need for increased **density** is often used by the property industry to argue for increased height. High densities can be achieved in low- to mid-rise. (For example, Dublin city centre compares well to other European capitals. It is already quite dense, ranging from 4,000 to 12,000 per square kilometre –

in areas such as Portobello, Stoneybatter, Ringsend and all areas within the canals – none of which have high buildings that overpower their surroundings.

Practical Implications

▪ **Piecemeal Assessment**

- Each planning application is being assessed on a piecemeal basis, without due regard to the **receiving environment**
- As permissions are granted, they translate into **precedents**, which are then cited to support new applications.

▪ **Poor Planning Decisions**

- The skyline of our cities are being destroyed and **fragmented** (Figure 5).
- Excessive height in opposing or adjacent sites create a “**tunnelling effect**”
- Existing homes and public spaces are suffering from **loss of privacy, loss of light and overlook**
- Our landscapes are becoming unappealing – this has a negative impact on communities and **tourism**.
- The overcrowding in these developments will drive people out of the cities, exacerbating sprawl.



Sandyford SHD, Dublin 18



Bailey/Gibson SHD, Dublin 8



O'Connell Bridge, Dublin 1



Castleknock, Dublin 15 (no parking, motorway junction)



Eglinton SHD, Dublin 4

Figure 5 – examples of over-development – of these, only the Bailey Gibson SHD has been judicially reviewed