

Opening Speech

Joint Oireachtas Committee on Housing

6th July, 2022

Chairman and Members of the Committee,

My name is Oonagh Buckley. I was appointed Interim Chairperson of An Bord Pleanála in January this year, having been appointed to the Board in December 2022.

I am accompanied today by Deputy Chairperson Mr. Chris McGarry and Ms. Brid Hill, Chief Officer.

Function

An Bord Pleanála's core function is to be the independent appellate body in relation to planning applications and the primary decision-making body for major public and private infrastructure proposals, both onshore and in our marine environment. The Board's mission is "to play our part as an independent national body in an impartial, efficient and open manner, to ensure that physical development and major infrastructure projects in Ireland respect the principles of sustainable development, including the protection of the environment."

I would add to that that we also need to address the consequences of climate change in our decisions.

Current staffing position in the Board.

Following my appointment by Government as interim Chairperson in January 2023, Minister Darragh O'Brien T.D. appointed Chris as Deputy Chairperson, and has recently decided to re-appoint him for a further term, which is good for continuity and corporate knowledge at Board level.

An additional 11 board members were appointed, all but one on an interim (1 year) basis, between January and April 2023, bringing the total number of Board members to the statutory limit of 15.

The increased capacity at Board level will allow the board to work towards reducing the backlog of work which has built up over the previous 2 years, restoring timely decision making with a view to reversing the downward trend in statutory objective period (SOP) compliance.

Timely filling of any future vacancies at Board level, and the appointment of permanent Board members who will replace the public servants such as myself who have been appointed on an interim basis, will be necessary to ensure this. I am working closely with the Department of Housing to ensure that.

The Board at end June had a staffing complement of 221, of whom a third work within the Planning Inspectorate. More than half the staff of the Board have been working in it for less than 5 years.

The Board has sanction from the Department to grow its staffing complement to 313 by end year. We have and are running competitions to recruit the staff we need, have a number of job offers out with people and intend to issue others soon. We will shortly prepare a further strategic workforce plan to submit to the Department in respect of 2024.

Current workload position in the Board.

In 2022, the number of planning cases received was 6% fewer than in 2021, to 3,058 from 3,251. However, the total number of cases decided in 2022 was 2,115, a 23% decrease on the previous year (2,775).

By year end, the compliance rate for our statutory timelines for taking decisions on appeals stood at 46%. By end May it was 31%.

There are currently some 3,400 cases on hand in the Board awaiting analysis or decision, which is roughly a year's intake. Of those, some 1100 have inspectors' files discharged and are awaiting a decision by the Board, which as the Committee knows, now sits in meetings of a minimum of 3 members.

I should say that that situation has been improved by the Board doing last week what is known colloquially as a "blitz" on decisions, specifically of the smaller normal planning appeal files.

While these are smaller files, generally involving extensions or modifications to existing buildings, or one-off houses, they are very important.

Firstly from a corporate perspective, they comprise a large part of the workload of the Board, and were about a quarter of the files awaiting decision. Secondly, from the perspective of those who need our services, they are the key decisions-

- to allow families put an extra bedroom into the roofspace to meet needs of a growing family,
- to provide an extra house in the garden, thereby using built up land more sustainably for housing, or

- for small businesses to improve the layout of their properties or to grow in line with their business needs.

The Board took more than 135 decisions last week, a little over 10% of our on-hands decisions. A number were within the 18 week SOP period for taking decisions. So some people, regrettably not enough, have received the service from the Board that they are entitled to expect.

I anticipate that the Board will repeat this approach, of running multiple concurrent meetings dealing with many smaller files, a number of times this year. However it isn't possible for the Board members, who do need time to read files thoroughly in advance and to write up their decisions afterwards, to do that every week. Nor is it possible to treat the larger case files, which require substantial amounts of time to read and decide, in that way.

Prioritisation

Members of the Committee will also appreciate that in order to manage our backlog while trying to move back into greater SOP compliance, the Board has moved away from dealing with cases in strict chronological order and will apply differing prioritisation to its caseload. That is necessary in any case to ensure that we meet the statutory timeline for handling appeals for Largescale Residential Developments (LRD), where otherwise the Board would be subject to making a payment to the developer.

Direct applications

The Board also has around 275 files where applications were made directly to the Board relating to larger infrastructure, local authority or State cases.

These can take substantial time to analyse. In addition, at end May some 76 Strategic Housing Development files remain with the Board of which 27 have inspector's reports discharged and are awaiting a Board decision.

While dealing with the backlog will be a significant challenge, the increase in Board membership, together with a number of other initiatives including new efficiencies in the process used and the use of Fee-Per-Case inspectors and overtime schemes, I anticipate that the overall output of decisions will continue to increase throughout the second half of 2023.

Legal

An Bord Pleanála faces an increasing case load of judicial reviews relating to its decisions – in the first 5 months of this year, some 25 Board decisions have been the subject of new judicial review applications, and the Board is of course still managing a few hundred judicial reviews taken in the last few years. The recent appointment of a new head of legal services, overseeing an expanding inhouse legal unit and the procurement of additional external legal supports, will help to ensure that the Board is better capable of absorbing changes in its legal environment due to legislation or precedent setting decisions, and therefore making more legally robust decisions.

Managing new functions

The significant new functions assigned to the Board in legislation in the last few years are starting to impact the Board's workload. The Board has restructured its inspectorate team into 2 groups dealing respectively with direct applications and appeals, to ensure that it can deal effectively with

its existing and new infrastructure consent functions. A second Director of Planning has been appointed to oversee direct applications including Marine and Climate Planning. The first round of pre-application discussions on 5 climate-related marine projects under the Maritime Area Planning Act, 2021 has been done.

In addition, some 600 valid appeals relating to Residentially Zoned Land Tax (RZLT) under Section 80 of the Finance Act, 2021 were received in May of this year and will require to be processed quickly. Those appeals comprise about 16% of our on-hands workload.

Priorities

There are several priorities for the Board for this year. They are -

- Reducing the backlog of work and restoring timely decision making to appeals and applications made to the Board.
- Managing the new functions now assigned to the Board.
- Working through the actions set out in the Board's implementation plan which we drew up in response to the recommendations in the Minister's Action Plan for An Bord Pleanála, and both reports by the Office of the Planning Regulator (OPR). One of the most important initial actions we prioritised was to draw up and promulgate a strengthened Code of Conduct for Board members and staff. I am happy to report that the new draft Code was formally adopted by the Board last week.

- Working with the Department on the new planning legislation, in particular as it applies to the Board, and starting the internal change process needed to move to the new governance model.
- Recruiting the people the Board needs to carry out its critical national mission, including the permanent Board members who will replace the public servants like myself who have been appointed on an interim basis. I want to take this opportunity to thank my fellow public servants for volunteering to come to the Board to help the organisation in this difficult period.

I am happy to take any questions the members of the Committee may have.