DÁIL ÉIREANN

AN COMHCHOISTE UM THITHÍOCHT, RIALTAS ÁITIÚIL AGUS OIDHREACHT

JOINT COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERITAGE

Dé Máirt, 7 Meán Fómhair 2021

Tuesday, 7 September 2021

Tháinig an Comhchoiste le chéile ag 12.30 p.m.

The Joint Committee met at 12.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Francis Noel Duffy,	Victor Boyhan,
Joe Flaherty,	John Cummins,
Thomas Gould,	Mary Fitzpatrick,
Emer Higgins,	Rebecca Moynihan,
Paul McAuliffe,	Mary Seery Kearney.
Cian O'Callaghan,	
Richard O'Donoghue,	
Eoin Ó Broin.	

Teachta / Deputy Steven Matthews sa Chathaoir / in the Chair.

General Scheme of the Planning and Development (Amendment) (LSRD) Bill 2021: Department of Housing, Local Government and Heritage

Chairman: Good afternoon. Attendees are very welcome to this meeting of the Joint Oireachtas Committee on Housing, Local Government and Heritage. Today we are going to commence pre-legislative scrutiny of the residential development Bill. We are joined by Mr. Peter Hogan, chief planning adviser, Mr. Colin Ryan, Mr. Conor O'Sullivan and Ms Ciara Gallagher from the planning division of the Department of Housing, Local Government and Heritage. The briefing material and opening statement have been circulated to members. I will first ask for the Department's opening statement. We will then circulate through members and take five minute slots of questions and answers.

I will read the note on privilege. Members attending remotely from within Leinster House are protected by absolute privilege in respect of the presentations they make. This means that they have an absolute defence against any defamation action for anything they say at the meeting. However, they are expected not to abuse this privilege. It is my duty as Chair to ensure that this privilege is not abused. Therefore, if statements are potentially defamatory in respect of an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative that they comply with such a request. I remind members of the constitutional requirement that they must be physically present within the confines of Leinster House in order to participate in the public meetings. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

The opening statement submitted to the committee will be published on the committee website after this meeting. Mr. Hogan is very welcome. I invite him to make his opening statement.

Mr. Paul Hogan: I thank the Chairman and the committee for inviting the Department to participate in the pre-legislative scrutiny of the general scheme of the planning and development (amendment) (LSRD) Bill 2021. By way of introduction, my name is Paul Hogan and I am chief planning adviser in the Department. I am accompanied by my colleagues Mr. Colin Ryan, senior planning adviser, Mr. Conor O'Sullivan and Ms Ciara Gallagher from the planning division of the Department.

The primary purpose of the proposed legislation is to replace the fast-track planning arrangements introduced in 2017 in respect of strategic housing developments, SHDs, allowing for the submission of planning applications for such developments directly to An Bord Pleanála and to largely restore - with some modifications - decision-making to local planning authorities, in the first instance, with the possibility of subsequent appeal to the board. As members will be aware, the SHD arrangements were introduced against the background of the housing supply shortage situation then pertaining, the delays being experienced in the obtaining of planning permission for such developments and the associated need to accelerate planning decision-making in respect of such developments. They were designed with a view to facilitating increased housing supply and providing greater certainty around the planning timelines for considering and determining planning applications for such developments.

The SHD arrangements delivered on their core objective of delivering fast-track planning permission for such developments. All pre-application consultations on SHD proposals between the board, the relevant local authority and the developer have been concluded within the prescribed mandatory nine-week period while up to the end of July 2021, all decisions on sub-

sequent planning applications, with the exception of two, have been made by the board within the mandatory 16-week timeline, or 24 weeks where an oral hearing was required. As of end of July last, the SHD arrangements had resulted in the approval of 210 development proposals comprising 13,199 houses, 29,938 apartments and 9,174 build-to-rent properties, giving a total of 52,311 residential units, as well as 13,091 student bed spaces and 1,330 shared accommodation bed spaces. It is worth noting that the number of apartments approved annually under the SHD arrangements trebled since their commencement in line with the Government's aim under the national planning framework to secure more compact growth in our cities and towns.

While successful in their primary objective of delivering speedier planning decisions for housing developments, the SHD arrangements have, however, been the subject of some criticism. First, while the number of number of housing units granted planning permission has significantly increased, the actual subsequent activation rate of these permissions has been less than might have been expected given the benefits associated with the fast-track SHD process. Second, they have reduced local authority involvement in final decision-making on planning applications and, third, the only mechanism against planning decisions under the SHD process is by way of judicial review, resulting in a significant increase in the number of judicial review challenges against large-scale housing developments than was previously the case, particularly over the last year or so.

In light of the foregoing factors, the new programme for Government committed not to further extend the SHD arrangements and instead restore the previous and more standard two-stage planning process while also seeking to retain some of the positive elements of the SHD arrangements, namely, mandatory pre-application consultation and decision timelines. Further to the programme for Government commitment in this regard, a SHD consultative forum, chaired by the Department and comprising representation from a range of relevant stakeholders, including the Local Government Management Agency, An Bord Pleanála, the Construction Industry Federation-Irish Home Builders Association, the Irish Planning Institute and other groups representing the property sector, was established in December 2020 to formulate new planning arrangements to replace the SHD arrangement.

Chairman: We have lost the connection to Mr. Hogan. Is there anybody available from the Department to take over?

Mr. Paul Hogan: Can you hear me?

Chairman: Sorry, Mr. Hogan, we did lose you, but we can hear you now.

Mr. Paul Hogan: Will I continue?

Chairman: If you could resume from the first paragraph at the top of page 3, that would be perfect.

We have lost the connection to Mr. Hogan again. Would Ms Gallagher or Mr. Ryan like to continue the opening statement?

Mr. Paul Hogan: Sorry, I am back.

Chairman: Thank you, Mr. Hogan.

Mr. Paul Hogan: The proposed new arrangements, as agreed by the consultative forum, comprise three pillars, namely, pre-application consultation stage, planning application stage

and appeal stage. In terms of timelines, the new large-scale residential development proposals, as outlined in the general scheme, will require planning authorities to complete the final consultation meeting aspect of the pre-application consultation stage, including the provision of an opinion as to whether the proposals constitute a reasonable basis for moving to the next phase and submitting a planning application within eight weeks of receipt of such a meeting request from the developer or project promoter.

The new arrangements will further require planning authorities to determine LSRD planning applications within eight weeks of receipt, with limited scope for further information requests during the application stage which in the past have resulted in considerable delays in determining planning applications. In this connection, prior to the introduction of the SHD arrangements, decisions on large-scale housing development planning applications were often delayed by the issuing of further information requests by local authorities, with multiple such requests being issued in respect of some development proposals. These further information requests primarily related to factors such as the capacity of existing infrastructure to service the proposed development, impacts on adjoining developments, height density design issues, open spaces, traffic impacts, including ingress and egress to proposed developments, flood risk, Part V social housing requirements, etc. In order to avoid such delays under the new large-scale residential development arrangements, the general scheme proposes that all of these issues should now be front-loaded and addressed by the planning authority and the developer at the initial pre-application consultation stage, while giving a small degree of flexibility to planning authorities by allowing for the possibility of no more than one further information request at the subsequent planning application stage in case an issue or issues arise that were not addressed at the initial pre-application stage. This is a significant streamlining of the arrangements previously operated by local authorities prior to the introduction of the strategic housing development arrangements.

With regard to the appeal stage, the board will be required to determine large-scale residential development appeals within 16 weeks of receipt, again with similar limited scope for further information requests. These streamlined large-scale residential development arrangements, involving mandatory timelines, have the potential to be almost as time efficient as the strategic housing development arrangements they are replacing, while also returning the primary decision-making function to local level. The reintroduction of an appeal mechanism to the board should assist in reducing the number of judicial review challenges against large-scale residential development planning application decisions. It should also be mentioned in relation to the appeal stage that the board has committed to maintaining the internal structures it operated for strategic housing development planning arrangements, availing of the same dedicated resources and expertise it had under its strategic housing development team arrangements, to ensure the prioritised determination of large-scale residential development appeals under the new arrangements.

The current strategic housing development planning arrangements are due to expire by 25 February 2022 at the latest. Consequently, it is necessary to ensure that the new provisions for large-scale residential developments will be enacted and in place well in advance of this date so the relevant sectors, including local planning authorities, the board, developers, architects, planners and surveyors, can make the necessary preparations to transition smoothly to the new arrangements. In this regard, head 13 of the general scheme outlines indicative transitional dates and timelines for the termination of the various phases of the strategic housing development arrangements and their replacement by the new large-scale residential development arrangements. In light of these indicative timelines, it is important that the necessary amending

legislation is in place as early as possible. In this connection, the Department intends, further to completion of pre-legislative scrutiny of the general scheme, to publish during the month of October a Bill relating to the new large-scale residential development arrangements with a view to its consideration and progression in both Houses of the Oireachtas and, if possible, ultimate enactment of the Bill by December.

I thank committee members for their attention. My colleagues and I are happy to respond to questions or comments that committee members might have on the proposals in the general scheme.

Chairman: For the information of the Department, we will have a second session on this on Thursday and we have invited witnesses from the Construction Industry Federation, the Irish Planning Institute, the County and City Management Association and the Dublin Democratic Planning Alliance. We then hope to carry out pre-legislative scrutiny on the general scheme and get the report back to the Department as soon as possible. We are aware of the time constraints on the Bill.

I now invite members to ask questions. We should not comment on live planning applications or strategic housing development applications that are before the courts or at pre-application stages. I ask that we keep the discussion to strategic housing development in principle rather than itemising individual applications that may be out there at present, if members are agreeable to this. We will begin with questions from Fianna Fáil.

Senator Mary Fitzpatrick: I thank Mr. Hogan and everybody in the Department for the work they have done on the new large-scale residential development Bill. It is very welcome. When I was a public representative at local level I complained loudly about the strategic housing development process. I hope this new Bill will address many of the issues that created great concern for communities. I was concerned with the centre of Dublin city. Mr. Hogan talks about the SHD process and the speed of same and it certainly delivered that. I am encouraged that there will be fixed timescales in the large-scale residential development legislation. I am also encouraged that it will be time bound but that the initial decisions will be taken at a local level. That is important. In terms of the workings of the local authorities, one aspect of the SHD process that the local authority members found useful was this statutory meeting and briefing for the elected representatives. I want to ensure that we have a commitment that the statutory meeting and briefing of local authority members and area representatives for each LSRD application will be maintained. The dedicated website should be kept up after a decision is made. That is important to the elected local members, as well as to the local communities.

Some 52,000 residential developments gained planning permission but the judicial review processes delayed a significant number of them. That speaks for itself but in giving developers and the sector dedicated resources, a time-bound process and the efficiencies, we need to ensure they also have a bit of a stick to deliver and use the precious, important and valuable planning permissions they will receive through this accelerated process. I would like Mr. Hogan to comment on that element as well because the legislation is one part of the process but capacity and delivering increased capacity in homes is important to us.

Mr. Paul Hogan: The statutory briefing for elected representatives operates in most local authorities because elected members receive the weekly list and can call certain applications for discussion at municipal area or area committee meetings. We are open to looking at how that level of interaction can be maintained. We have to bear in mind that the large-scale residential developments are a reversion to the system within the central eight weeks where the planning

application is made. Within that time, local elected members have the facility to make an observation on a planning application free of charge and they can have that recorded within the five weeks. That is something that already exists and will continue to exist, whereas it did not previously operate with SHDs. If the committee is considering making a recommendation or suggestion on that, it should bear in mind how that would fit into the five-week period during which submissions are made, how it would align with that and how it could be taken into account. The briefing information about files and large-scale developments needs to be disseminated and that can easily be done.

It is proposed to maintain the website, particularly for large-scale developments, and that is something that has proven useful and effective. One of the criticisms has been that the website comes down once the application has been determined. That is a useful facility and we would have to have a look at that. It is part of the proposal.

On the delivery side, I do not want to get too much into a whole other area but there are proposals in Housing for All to deal with those issues more separately. We would accept that the level of delivery is not commensurate with the level of planning activity, decisions made and units permitted. Delivery is important but as the Senator is aware, firm decisions have been made and matters are being advanced on foot of Housing for All with regard to, for example, a tax on what are referred to as vacant sites. However, that tax will be on zoned development land that does not come forward. That is happening, therefore, and it is being pursued. The response has been generally positive to all those aspects and things can be incorporated as the legislation moves forward.

Senator Mary Fitzpatrick: I thank Mr. Hogan. The proposed vacant land tax is very welcome. Regarding the statutory meeting, my point, and I absolutely recognise the-----

Chairman: I am sorry, but we are over six minutes. I must be strict in this regard. I will try to get the Senator back in during the third round.

Senator Mary Fitzpatrick: No problem.

Chairman: I will move on to the Sinn Féin slot. I call Deputy Ó Broin.

Deputy Eoin Ó Broin: I thank the Chair and confirm that I am in Leinster House. I thank Mr. Hogan for his presentation. The understatement of the day is the description of there having been some criticism of the SHD process. Most of us are of the view that it has been an absolute disaster in the context of the lack of commencements of grants of permission, the level of judicial reviews and just the general sense that it has exacerbated the adversarial nature of the planning system. None of this is necessarily the fault of the Department, but I wish to put that point on the record.

In general, I welcome the return to a two-stage process, and local authorities being at the centre of that, but I will express some extreme caution concerning some technical aspects of the heads. I will rattle through a bunch of questions very quickly. If Mr. Hogan cannot answer all of them during the meeting, I ask that written responses be forwarded to the committee in advance of our pre-legislative scrutiny report considerations. That would be helpful. Of the 51,000 or 52,000 units of accommodation approved under the SHD process, what percentage have been commenced? How many of the judicial reviews lodged were based on claimed breaches of city and county development plans and how many of the reviews which have been heard were decided in favour of the applicants? I ask those questions by way of obtaining

background information.

Will Mr. Hogan confirm that my reading of the heads of the proposed Bill is right in that there is no change to the statutory timeline for local authorities in the context of what would have happened previously with the process? There is the same two-week period from notification to submission, the same five-week period for submissions from third parties and the same eight-week period for local authorities to decide. That is my reading of the proposed Bill, but I would like Mr. Hogan to confirm that there are no changes in that regard.

A beefed up pre-planning application process will have staffing implications for local authorities. Will Mr. Hogan tell us if there have been discussions with local authorities, particularly the large urban ones, regarding that aspect. In addition, a stronger LSRD pre-planning process could have implications for mid- and small-sized planning applications. Will Mr. Hogan comment on whether that point has been considered and what has or will be done to mitigate any impact on applications for planning permission below the threshold in this regard?

Turning to fees, will Mr. Hogan confirm that when we get the Bill, we will know what the proposed fees are going to be? I ask that because I am sure there are people behind the scenes furiously lobbying to have the fees reduced for the industry. I would like to know that fee information before we are asked to consider the Bill.

Moving to the heads of the proposed Bill and running through them very quickly starting with head 4, will Mr. Hogan explain the rationale for the 30% retail or commercial requirement? I am not concerned by it, but I would like to know the reason for that percentage.

Regarding head 5, there is a real missed opportunity because there is no consideration of public participation or public access to documentation during the pre-planning consultation. I believe strongly that if we want to reduce the number of third-party objections and judicial views then the earlier we involve local communities and interested third parties, including environmental non-governmental organisations, the better. Was consideration given to allowing involvement at that stage? If not, why?

Moving on to head 6, subsection 14 of the proposed new section 247A to be inserted in the principal Act states that "A person shall not question the validity of any action taken or opinion formed by the planning authority under this section". Will Mr. Hogan explain what that provision means and what its scope is?

Turning to head 8, the accompanying explanatory note states this is "to allow the Minister to prescribe the specific issues which can be addressed by way of [additional] information". How does that point relate to our international and EU legal obligations concerning environmental directives, Aarhus directives and-or framework directives, for example? Are we at risk of being too restrictive regarding the capacity of local authorities to request additional information? If we are too restrictive in that regard, could we - as we so often do with some of our rushed planning legislation - end up with a conflict in that regard?

Under head 9, why is it proposed to give the board extra time when it cannot meet the statutory timeline? That seems to defeat the purpose of it. We do not let the local authority have that. What is the rationale for allowing the board to decide on its own terms if it is going to meet its statutory deadlines or not?

Will Mr. Hogan provide more detail on head 12, exclusion from entitlement to compensation?

On head 13, I am surprised at the generosity of the transitory arrangements. Will Mr. Hogan explain the rationale for allowing a full SHD to be submitted until February? Given that the decision will not be taken until some time after that, what is the rationale for leaving such a wide window of opportunity for those?

Chairman: The Deputy asked ten questions. I do not think Mr. Hogan will get to them all but perhaps we will get written responses to those he does not reach. Other members may ask similar questions.

Mr. Paul Hogan: We are happy to follow up in writing, particularly with some of the statistics because we cannot rattle them all off, so they will not be comprehensive. My colleagues might respond on one or two issues that they could better and more briefly explain that I could.

There have been 210 grants of permission under the SHD system, 72 of which have commenced. We can get the figures from those. The number is not insignificant by any means but 138 projects have yet to commence.

There is not a very large number of judicial reviews of development plans. A whole range of issues have been deployed in relation to judicial review. They are not all environmental by any means. The ratio as between environmental versus planning is roughly 50:50. On the planning side, a small number of judicial reviews relate to development plan breaches. I do not have exact figures but we can address that.

I can confirm that there is no change in statutory timelines. It is largely a familiar system and will not give rise to significant changes.

Staffing implications are important for local government. We are aware of that and we have asked the County and City Management Association, CCMA, with regard to this matter and a range of other measures, to review its planning resourcing with a view to identifying what its needs will be, not just in relation to this issue.

Chairman: I am sorry to interrupt but the six minutes for this slot have elapsed. We may be able to raise this matter with the CCMA when its representatives appear before us on Thursday. I ask Mr. Hogan to supply a written response to Deputy Ó Broin's other questions. The Deputy may get another opportunity to speak towards the end of the meeting if there is time.

Deputy Emer Higgins: I will ask the same question as Deputy Ó Broin asked so Mr. Hogan will get a chance to answer it. I note the CCMA will be before the committee later in the week.

I thank Mr. Hogan and his team for all of the work that has gone into this Bill. SHDs were introduced to accelerate housing. While the initiative delivered on the fast-tracking of planning applications, judicial reviews slowed many down and, as Mr. Hogan outlined, 138 sites remain undeveloped despite being granted planning permission.

I was a county councillor for almost a decade and I must admit that SHDs were very much a cause of frustration for me. They were often viewed by councillors as a way of bypassing councillors, councils and development plans. Judicial reviews are seen by resident associations as an unaffordable and unobtainable appeals mechanism. For these reasons, I welcome the sunsetting of SHDs and this new legislation, which I hope will accelerate the delivery of housing supply, as I believe it will.

I welcome the strict timelines associated with each of the planning phases and that the time-

frames for consultation remain the same. It makes an awful lot of sense that the pre-application is to be used to iron out issues rather than giving rise to further information requests, which would ultimately cost more time. The paperwork, drawings and technical material provided by the applicant must be thorough enough to make that work. There is, therefore, a big onus on those who submit planning applications to ensure they come to that initial first phase absolutely prepared.

To build on what Deputy Ó Broin said, will these time phasings increase the burden on staff in planning departments? What plans are being made to ensure efficiencies in the areas of staffing and the processing of planning applications and to see what can be done to ease that burden if additional resources cannot be made available?

As Senator Fitzpatrick mentioned, Housing for All refers to a tax on vacant zoned sites. I know the Department and the Revenue Commissioners are engaged in ongoing work on this matter. Does Mr. Hogan have an update on that?

There has been much talk here about the SHD websites and how they were a very useful tool from the public consultation perspective. We have touched on that a little, but I am still unsure as to whether that facility will be transferred into the new LSRD system.

In summary, my three questions for Mr. Hogan and his team are around resourcing, the vacant site tax and the public consultation element.

Mr. Paul Hogan: We have looked for information on staffing and what the requirement will be. As things stand, there is, perhaps, an underestimated or unrecognised burden on local government officials in regard to the SHD process because there is the pre-planning stage that happens locally and then tracking the development into An Bord Pleanála and having to attend meetings there. While the final decision does not rest with local government staff, there is a lot of work, including much upfront work, to do. Certainly, former colleagues and officials in various authorities have said that. There is a need, across the board, for planning resources to be looked at in any event. I am sure it will be confirmed by the CCMA that this is happening.

In regard to vacant sites, we are looking at trying to link zoning and the capacity of servicing to taxation. It is something of a use-it-or-lose-it situation but, obviously, we have to iron out all the issues to ensure what is there is reasonable and proportionate and can give rise to the levels of activation we need to see. If someone has a zoned site that is serviced for development, what is the reasonable period for him or her not to do anything with it? Clearly, there are market ups and downs but after a certain point of time, it seems inefficient to have it vacant and it needs to get moving.

The Deputy's last question was on public consultation.

Deputy Emer Higgins: Yes, particularly the websites, which most people are saying kind of worked.

Mr. Paul Hogan: If we take it that some of the more positive and useful aspects of the SHD process are being taken back into the system, let us say, then that is certainly one of those we have identified as being useful and potentially very helpful to people.

Deputy Emer Higgins: I thank Mr. Hogan. He made a very good point, which I had not thought of before, in regard to the burden that is already there from an SHD perspective. It makes a lot of sense, and I hope it is something about which we will have further conversations

with the CCMA.

Chairman: I thank Deputy Higgins for sticking to the time limit.

Senator Victor Boyhan: I thank Mr. Hogan and his team for attending. I took the time this morning to look back at the discussions we have had on these issues at previous meetings. I draw the witnesses' attention to the meeting of Tuesday, 10 November 2020, which was attended by Mr. Hogan and his colleague, Mr. Terry Sheridan, and witnesses from An Bord Pleanála. All along, there has been a consistency from An Bord Pleanála in stating that it has enough resources to do the job, yet it clearly did not deliver on some aspects of it. The members of the board must think that aspect is important.

I welcome this pre-legislative scrutiny of the Bill. Members of the committee will recall that the Minister wrote to us on 23 July 2021 suggesting that we waive pre-legislative scrutiny. If we have learned anything over the summer months - various media commentators have talked about this - it is that rushed legislation is bad legislation. I am glad, therefore, that we took a decision to have this pre-legislative scrutiny. It was not a given and, as I said, there was a request to waive it. I am glad we did not accede to the Minister's request. That is an important point.

I thank the committee secretariat for circulating the regulatory impact analysis, RIA, before today's meeting. It makes for very interesting reading. I saw it for the first time last night and the commentary it contains is particularly interesting. The regulatory impact is something we always must keep an eye to when we are looking at new legislation. We had a mid-term review of the SHD process, so the issues being raised should not come as any great surprise to the Department. All of these problems were raised and discussed. We know there were 22 recommendation in this report, which was published by the Department in September 2019. The issues were discussed by councillors and, indeed, by Senators and Deputies. As a committee, we should revisit this report and look at every detail of it because a lot of work was done there and the people who made those submissions felt they were dumped. It is very interesting to see that the recurring themes about which we are talking today were in this report. As far as I am concerned, the SHD system was a total failure. Yes, it fast-tracked planning applications but this was not reflected through the commencements we expected or the delivery of housing. That is an important point and we have to accept that did not happen.

There was a concept and suggestion that An Bord Pleanála should somehow become a one-stop shop which would cut times and so on. It did nothing like it. It ultimately cut out locally elected representatives, local authorities and planning authorities. It had a very bad impact. It also cut out third-party appeals. I have always maintained that it was in breach of the Aarhus Convention. It was not acceptable as regards public engagement in the planning authority. I will, in some way, acknowledge the Green Party. While it did not get it over the line during its discussions on the programme for Government last year, it did get a commitment that it would end. I hope it will end fast. The main fast-tracking we need to do is the fast-tracking of an end to this process. It is a bad one.

I will make one call. The County and City Management Association is coming in next week. I note that the Association of Irish Local Government, AILG, and the Local Authorities Members Association, LAMA, were not invited to participate in this process. The Chair has indicated that we will have more meetings on this. That is really important. I understand that the president of the AILG, Councillor Mary Hoade, wrote to the Minister and the Department to make two asks, which I will now reiterate. The first was for a mandatory consultation channel

for elected councillors similar to that included in sections 8(4) and 8(5) of the 2016 Act. That worked. Let us look at something that worked. That engagement worked.

The second ask relates to a really controversial issue, that of the prohibition on characteristics conflicting with a planning authority's development plan being included by the applicant, that is, the developer. I refer to applicants coming out and saying that they are going to contravene the plan. There should be a prohibition on that. The AILG has written to the Department, as Mr. Hogan may be aware. I believe these two asks are very reasonable. I want to see them met.

I am delighted that we are welcoming back the two-stage process. We should never have got this far. We have to accept that the Government got it wrong. Some of the people on this committee were there at the time. We said it and pointed out all of these pitfalls but I just want to make the point that mistakes were made and that it was wrong. I hope the Department will take that on board. Will Mr. Hogan comment on those two objectives of the AILG? What is the likelihood they will be achieved? I hope he will be positive and supportive on behalf of the Department with regard to those two requests.

Mr. Paul Hogan: We are aware of the correspondence. It came in through the Minister's office. We are considering it in the course of developing this legislation. As I mentioned, we need to be careful about how the mandatory consultation with elected members fits into the process. It must be borne in mind that the elected members make the development plan so, as the planning authority, they are the policymaking body. The making of decisions on planning applications is delegated to the executive. As I have mentioned already, elected members are in a privileged position in that they can make submissions on an application within the five weeks, to have those submissions recorded and to take it further from there if need be. How elected members interact with the process and at what point needs to be very carefully considered given that balance between that policymaking role, the duty of the executive to implement the plan and the existing right of elected members to make submissions and to appeal. We do not want to overload the process but we do want to enable people to lead a response. There is a very careful balance to be considered and we think we have already struck that balance.

With regard to the second issue, the prohibition on conflict with a plan, separate from all of this discussion, we want to strengthen local development plans, including county plans and local area plans. We want them to be more meaningful and more detailed to get away from everything riding on the planning application and allowing that to be the point at which matters are decided and decisions come as a surprise to people.

Chairman: Sorry, Mr. Hogan; I have to interrupt you there. We have to move on to the next slot. My apologies.

Deputy Francis Noel Duffy: I confirm I am on campus. I thank Mr. Hogan and his colleagues for briefing the committee on the new legislation to replace SHDs. Since 2017 I have encountered many issues relating to SHDs which have already been discussed. Mr. Hogan commented on councillors being able to call up planning applications, which was the case in the past, at least in South Dublin County Council, if I am allowed to say that. If there was a large application, the officials would brief councillors on it, and if there were smaller applications, councillors could request a briefing on them. However, during the previous council term that practice was brought to an end. Councillors in south Dublin are not currently briefed on applications and they cannot request such briefings either. I was of the opinion that the SHD scheme was vague when I sat in on one of those briefings. It would be interesting if Mr. Hogan

could come back on that issue.

The phrase "use it or lose it" has been bandied about quite a bit with regard to SHDs. Will there be a "use it or lose it" clause in the Bill? The research we have done indicates that in south Dublin there was a 56% commencement rate for planning applications for between ten units and 100 units, whereas, as has been discussed, the commencement rate under the SHD scheme was in the region of 29%.

My first question relates to councillors being prohibited from asking for briefings on planning applications and my second question is whether a "use it or lose it" clause will form part of the Bill.

Mr. Paul Hogan: I will answer briefly in an effort to stick within the time limit. It is easy to stray over the limit. There is a difference in respect of being briefed on a planning application. Obviously, I am familiar with such briefings. I think the facility to which the Deputy referred related to all planning applications. It was not just in respect of large scale residential developments; it was larger applications and those identified by elected members. It is reasonable that members be briefed. The issue addressed in the circular to which the Deputy referred related to comments being made on the record and thereby prejudging the decision of the executive. I think that was the issue. If there is some sort of in-between situation at which we could arrive, that might be useful. The issue relates to comments being recorded in the minutes.

As regards a "use it or lose it" clause, that is incredibly difficult to legislate for. When the State goes to the trouble of awarding a planning application that ultimately is considered acceptable and it wants to be developed, curtailing that application at a certain point when there may be issues that have nothing to do with planning, such as those relating to finance, land ownership or whatever it might be, and going back to square one is counterproductive, particularly in respect of something like housing, of which we wish to see more. It is incredibly difficult to legislate for that through the regulatory planning application process, but there are other means of doing so. Taxation is a very important way of influencing behaviour with regard to economic activity. That is where we are at in that regard.

Deputy Francis Noel Duffy: I thank Mr. Hogan. He is saying that councillors across the country can request to be briefed on a planning application in a local authority without comment on the record. Councillors were previously briefed on such applications but that stopped.

Mr. Paul Hogan: If the circular issued in 2018 has given rise to a complete elimination of that practice, I think we can perhaps clarify that because, as I said, it is important to have a briefing, without the application being commented on, and it is important for elected members to understand what is being proposed in their area. That is utterly reasonable.

Deputy Francis Noel Duffy: I thank Mr. Hogan.

Chairman: There is a minute left in that slot. If the Deputy does not mind, I will expand on what he has said. There is a significant difference with regard to councillors being briefed and making comment on a planning application for an SHD which will be decided by another entity, namely, An Bord Pleanála, and on which the chief executive makes a submission. There is a difference between councillors making comments or requests to the actual decision maker, who is the chief executive under section 34. I can see that there would be a difficulty there. One is making a contribution or submission to another party. Under section 34, one is making a contribution and request to the decision maker on that. I can see that might need some clarity.

That might be helpfully done by way of a circular to local authorities, planners and chief executives to make it clear that a briefing should consist of particular things, but to be cautious about particular matters. That would be helpful to all councillors, planners and the whole process. I will move on to the Labour Party slot.

Senator Rebecca Moynihan: I thank Mr. Hogan for the briefing. I have a number of questions. I welcome the fact that the SHD process is ending. Unfortunately, the Act can be improved on, in particular in respect of community consultation because that is one key aspect where people have problems with the planning process. Communities are not consulted during the course of the process.

Mr. Hogan did not answer Deputy Ó Broin's question on why the figure was 30% rather than the 15% that is already allowable. I would be interested in hearing the background and thinking behind increasing it to 30%. We might end up with large commercial developments going through the SHD process when it is meant to be for housing delivery.

Was any consideration given to deleting student accommodation from the process? It is the same as the SHD application. They comprise 200 units. In my area two student applications in recent times have been changed to short-term living applications. The local authorities have allowed that to happen. There is certainly a feeling that we have reached peak student applications within Dublin Central and Dublin South-Central, in particular the Dublin 8 area. I do not see why student applications are not included in the revised legislation.

On community consultation, was any consideration given to beefing up the requirements on applicants to meaningfully engage with communities regarding the very large developments that are taking place? One of the criticisms of the SHD process has been that it bypasses communities. Beforehand, even in the case of large planning applications going into local authorities, many communities felt that the community consultation aspect was inadequate. They certainly were not listened to when they raised concerns. That has been vindicated in terms of the number of judicial reviews that have been upheld when such cases have gone to the courts. I would like Mr. Hogan to speak to that.

Mr. Paul Hogan: The 30% figure came at the request of one of the planning authority representatives from the local government management side. There is a need to provide mixed-use-type developments that are still overwhelmingly residential, but include employment space, offices, shops, commercial outlets and other facilities such as gyms simply because it allows for a more varied environment where people have a choice of things to do, in particular at ground floor level and sometimes in separate or discrete blocks. Large-scale developments that are solely residential can be quite limited. The 30% figure was decided on to try to address that practicality whereby those sort of schemes are still primarily and overwhelmingly residential. The issue was considered by the working group and that is what came out as a reasonable figure.

I will ask one of my colleagues to confirm whether the student accommodation matter was considered. I am not aware that it was but, very simply, the logic is that student accommodation gives rise to a demand for residential accommodation, however that may be, notwithstanding the concentrations the Senator referred to. We believe that should be addressed, perhaps, through other means such as local housing need assessment.

On the question of community consultation, that should be taking place at the development plan stage. I was cut off earlier when explaining that, but the development plans need to be stronger and more directive about certain things. We need to work on strengthening how that

might happen so that when an application comes in, the community knows what to expect and has already been engaged. We cannot rely on the developers to do that. It is open to them, but they do not always do it.

Does anybody wish to add anything further on student accommodation?

Mr. Colin Ryan: I will comment briefly on student housing. It was discussed just on the basis of what was the definition for SHDs. As Mr. Hogan said, it is a housing need of a certain description, such as in certain locations in the city centres around the country and not just in Dublin. However, I appreciate that there are local issues in certain areas of Dublin. It was seen as a reflection of what was already in place at present.

Senator Rebecca Moynihan: Do I have time for a follow-up to that?

Chairman: You have 20 seconds.

Senator Rebecca Moynihan: Was any consideration given to banning changes of use for student accommodation if one can say that it is needed? Student accommodation providers are now applying for change of use to tourist accommodation and are getting planning permission for that.

Mr. Colin Ryan: It is a separate issue. One can apply for permission for change of use and it will have to be determined. It would have to be determined on its merits at the time.

Chairman: The next speaker is Deputy Cian O'Callaghan.

Deputy Cian O'Callaghan: Issuing a circular to local authorities about what can be done in terms of calling planning files and getting briefings needs to be done because I am aware that most local authorities have stopped that process altogether and removed it. That is an important part of the process and needs to be reinstated, albeit without the facility for comments.

Community consultation is an incredibly important part of the process. If we want to smooth out many of the delays and the conflicts that happen and if we want to get the benefit of a lot of local knowledge that can often be very important and which sometimes developers do not have, community consultation is very important. Sometimes that is a way of spotting issues and addressing them before they become a problem. I agree that the development plan stage should be the framework that gives certainty on this but, in practice, for many local communities these issues only become real and move out of being abstract when they are faced with an actual planning application. It is more concrete and they are not looking at the entire county level or whatever. All that information on zonings and different colours on maps can be abstract for people, but actual planning applications are when most people engage. Consultation at an early stage in the pre-planning process would be very beneficial for everyone concerned. That has to be examined.

I have two questions. In terms of additional information, head 8, additional information can be very important in the consideration of more complex and detailed issues and sometimes can resolve issues that otherwise would lead to a refusal of planning permission. Can the witnesses clarify the areas on which additional information specifically can be sought?

On breaches of local area plans and county development plans, which have given rise to many delays and judicial reviews, this process will still allow that to happen. That can still happen so can they speak a little on that?

Mr. Paul Hogan: I will ask my colleagues to speak on this as well. The point of the shift in additional information from the eight-week planning application stage to the earlier level of consideration is so that it just does not arise and that final eight-week part of the consultation is essentially a dry run where everything has been discussed and ironed out. Negotiation has taken place. We now want to see what the developer is going to submit, and whether it is a reasonable basis on which to move forward. That is when the report on the scope comes back, which relates to one of Deputy Ó Broin's questions as well. This is the point at which questions are raised that might otherwise in the past have been for information. It is clear, then, to the applicant, at the final formulation of their application, what they need to submit to avoid that sort of scenario.

There has to be a facility, because things may newly arise that might have not been considered. There could be significant environmental matters that they have just refused to address. As has been mentioned already, we have obligations in European l terms. The sorts of things would be covered by additional information would be things that arise that are new, and things that are significant and unavoidable. We will have to allow some degree of flexibility, so as not to cut things off and not to curtail the process, if it has gone so far. However, it would have to be practical and enable things to by and large be dealt with before an application is even made. It should be on the developer's time to get it right, not when the gun is to the head of the officials in the planning authority and when elected members and the public are all concerned that these things have to be considered in a short eight-week timeframe, as things stand.

Regarding breaches of local area plans and statutory plans, because An Bord Pleanála does not deal with the application in the first instance, the local authority is obliged to give effect to its own development plan. In theory, there should be a better alignment between the planning application and the level of consideration. Having said that, An Bord Pleanála is empowered under section 37 of the Planning and Development Act to take a view that is different to the development plan, should that be necessary. At times it can be, because there may be local policies from previous times that might not align with more up-to-date Government policy. Again, as plans are updated, this is being ironed out and addressed, and, hopefully we will see less of that. Certainly, we wish to strengthen development plans and local area plans to bring them more in line with policy generally, so that the board does not have to go down the route where applications end up in appeal.

Chairman: I am going to move on to the second Fine Gael slot.

Senator Mary Seery Kearney: I am in Leinster House. My question has probably been answered in the replies to Deputy O'Callaghan's questions I see section 247 and section 247A as the filtering mechanism to ensure that there is not a situation whereby An Bord Pleanála is seen to give permission that is contrary to development plans, and that it is absent in some instances. The judicial review, JR, arises from perceived lack of due cognisance to environmental impact assessments and other necessary elements. Perhaps that is from where JRs arise, as well as from the dissatisfaction with the lack of adherence to a development plan. Unless Mr. Hogan would like elaborate, that is where my questioning was going to be specifically. Does he feel that the filtering mechanism is strong? The word "opinion" sounds weak; when I read it, I thought "opinion, opinion". How strong will that filtering be? Could Mr. Hogan please reiterate that for us?

Mr. Paul Hogan: I might bring Mr. Ryan in on this as well, because he has extensive experience on this in local government. The reality is that there will be an element of bedding in and testing it. I have mentioned the word "negotiation". The pre-planning stage is very much that

in that a developer has a proposal and he or she brings it to the planning authority. There can be a back and forth about different policy issues and different considerations and concerns, but at the end of the day it is up to the developer, as the applicant, to submit what he or she wishes to see developed or feels he or she can bring forward. It does not always comply with the advice of the planning authority. Things may be pushed a bit further. Things may be ignored or cannot be addressed or whatever it is. It is really important these things are teased out to the fullest extent possible.

Mr. Colin Ryan: To follow on from Mr. Hogan, what we have looked at with the pre-application stage, at 247A, is to iron out what could be very technical issues that could require further information, such as, traditionally, issues to do with capacity of water and drainage systems - that is not to underestimate the third-party issues - and get that element as removed as possible when the application is made.

With regard to the Senator's question on opinion, opinion is a very strong word because it is the opinion of the planning authority. It cannot give a decision because it has to make a decision on the planning application, but it can give a view or an opinion on what is a reasonable basis for the making of a planning application. Opinion is carefully worded in that regard and I take it that it is much stronger in practice than a random view.

Senator Mary Seery Kearney: I thank the witnesses for that and for all the hard work. I would have seen the SHDs as being a solution, had they operated as intended, to the change management we need to embrace in that we will have to go higher or have greater density and have a change in how people live as well. Coupled with the strengthened development plan process, the housing needs analysis and that all feeding into the development plan, I can see it as being very coherent.

As a barrister, I am very keen on opinion being strong; it is just being sure. I have given feedback on SHDs as a councillor in South Dublin County Council and yet found that those inputs from the people on the ground and the representatives representing the people on the ground were completely abandoned by An Bord Pleanála. While respecting the board's independence, at the same time that is very frustrating. I sincerely hope the 247A procedure takes away that which has undermined this process and it addresses that by being a good, strong filtering and that opinion will be such.

Deputy Thomas Gould: I agree with most people who say that the SHDs were a complete failure. When you look at the number of applications, and I think Mr. Hogan said it earlier, 52,000 were supposed to be delivered, and of the 210 development sites, only 82 were commenced. How many affordable houses were lost in those developments that were not developed? The other question that Mr. Hogan might be able to answer is how long will those developers have to develop those other 132 sites? Is that the figure Mr. Hogan gave earlier? Some 128 were not started. I welcome the new legislation because everyone recognises that the SHDs were a failure and we needed to move on.

Community consultation and involving communities and local public representatives is vital. We want to deliver housing, we want sites, and we want development that is sustainable and meets city development plans and local area plans. Without consultation, however, that has been a huge problem. We have seen that with all the different cases that have been taken. Reference was made to the new Government plan, Housing for All. Do the officials have any comment on the Government's U-turn, with Mr. Killian Woods reporting that there could be a loss of up to 10,000 affordable homes with a last-minute decision by the Government to provide

an exemption? There are a couple of questions there. If I have more time to come back to the witnesses, I will do so.

Chairman: We might discuss the Part V stuff if we have time at the end but I would like to stick to the proposed LSRD Bill for the moment.

Mr. Paul Hogan: It is not really possible for us to say how many affordable homes have been lost as a result of this. Anybody can make a planning application at any time and it is really at the discretion of the person who was granted planning permission whether to develop. That is the normal course of events. There is the question of how long developers have to implement planning permission that has been granted. Generally speaking, that is five years, unless there is a specific request for a longer period that is granted. I suggest that the vast majority of the strategic housing developments that have permission granted and are not yet implemented would have five years to do that, starting from the point of initial granting of such developments in 2017. Some may have more. They will run for the next few years.

As I have mentioned, the intent is to implement fairly soon a replacement for the vacant site levy in terms of a development land tax on unimplemented development sites after a certain period. I am not saying this for sure because the matter has not been finally determined but it is possible that some of those sites may well be liable for such a tax in the very near future.

With regard to Housing for All, I only mention it because it is relevant to the particular question and that aspect of the proposed Bill. I do not propose to get into the wider aspects of it in this discussion.

Deputy Thomas Gould: Mr. Hogan references the possibility that some of these sites may end up liable to a vacant sites levy if they are not developed. My concern relates to circumstances where permission for 52,000 units in an SHD scheme is granted but where only a fraction of that number are developed. I am dealing with people every day who are crying out for housing - private, affordable private or cost-rental. People are seeking answers and solutions and the SHDs were meant to form one of those solutions. People are at their wits' end and we are now looking at new legislation on the back of the Government's launch of Housing for All last week. What about the ordinary people watching these proceedings or who are waiting to see what will happen?

Some developers have abused the process by getting planning but not delivering. We need to take action in order to deliver for people. We are in the worst housing crisis in the history of this State but developers and speculators are sitting on land in respect of which there is planning permission and are not moving forward with developments. That is not acceptable. We must do something about it other than bringing forward new legislation.

Deputy Ó Broin and others told the previous Government that this system would not work. We can see now that it did not work. I hope we will not be here again in five years in the same position.

Mr. Paul Hogan: On a positive note, I have spoken about the replacement for the vacant site levy but there are also provisions in Housing for All to activate permissions through the Land Development Agency with Project Tosaigh. This is not exclusively related to SHDs, but it certainly relates to any existing planning permission that may well be suitable for acquisition for affordable housing. There are very firm proposals or decisions now made and brought forward in that regard within Housing for All. There is also a fund to address extant or un-

implemented permissions that are out there. If it can make the difference to bringing forward affordable development, it will be deployed for that. There are positive carrots as well as the stick that I mentioned.

Deputy Paul McAuliffe: I very much welcome the legislation that is before us today. It effectively marks the end of the SHD processes. It allows communities once again to have access to a two-stage decision-making process and it reverses the attempt to remove them from that decision-making process. I think it is another example of how the new Government is doing housing differently from the previous Government.

I echo many of the comments which have been made by, to be fair, those in all parties that this was used in many cases in regard to, and perhaps became more about, site values and planning approvals rather than being about commencements. Deputy Gould asked how many affordable homes were lost because of the lack of commencements. I suppose the simple answer to that is "None" because the previous version of Part V had no ambition on affordable housing and it was purely a social housing model. The doubling of the obligation on developers under Housing for All in regard to Part V, which will now have 20% - that is, 10% social and 10% affordable - is another example of us leaning into the State being the main provider of homes, and the aggressive programme of delivery of public housing says that too.

There was one element of the SHD legislation that I thought did work. This new legislation will see a return of powers to local authorities but it will see a withdrawal of powers from local authority members in the area of the statutory consultation with councillors. From now on, if councillors wish to make an observation, they will have to make a separate submission themselves. I often thought one of the benefits of the SHD legislation was that a collective decision or collective discussion could be brought from the local authority through the submission made by the planning authority to An Bord Pleanála. I would like to see that retained either in guidelines or in legislation. It meant that broader middle ground of opinion on an application could be represented, and it meant we did not have each local authority member making his or her own submission, which they are obviously entitled to do.

There are also *ad hoc* arrangements around how local authority members make submissions in some local authorities. I know Dublin City Council is very good at bringing forward applications to area committees, although that is not the case everywhere. In Dublin City Council, local authority members do not pay the planning fee, but in other local authorities they do. We need to standardise the process around how local authority members consult large-scale developments as that will strengthen the Bill.

Overall, I very much welcome the legislation. I welcome the work that has been done on it by the officials and I look forward to it being implemented as quickly as possible by the Dáil and the Seanad to ensure we reach the deadlines that are outlined in the Bill.

Mr. Paul Hogan: I thank the Deputy. We can certainly understand from the engagement today that the question of elected member input to the process is clearly an important one. I would reiterate what I have said already in regard to the streamlined process and the eight weeks and how that could be given best effect, bearing in mind the role of members in making the plan in the first place, the duty of the executive to implement the plan and the fact members have that facility to make submissions. I share the Deputy's view that it would be very good if there could be a kind of collective view but, again, how that can relate to an eight-week process is not so straightforward, and there are already lots of provisions there. Any deliberations from the committee need to consider that in particular. However, we are certainly open to those

considerations.

Deputy Paul McAuliffe: I hear Mr. Hogan's views but I think there is benefit in the elected members for an area having an opportunity for a collective discussion about an application. It has been said here that the opportunity for that is at the development plan stage, but anybody involved in community consultation on planning knows that most of the concerns around planning are site specific. They are about access, parking and where entrances might be or they might be about the impact of adjoining traffic. These are discussions that just do not happen at development plan level. I believe that trying to build consensus on planning issues is important because it removes us from an adversarial role. One of the benefits of the SHD legislation was that it gave councillors a collective opportunity to discuss planning issues. With the advent of online meetings, we are in a very different world in what we can deliver at local authority level. Again, it could be by way of guidelines or best practice, but I would like to see opportunities or, at least, the embedding of the practice in some local authorities whereby area committees have an opportunity to discuss large-scale developments. Those discussions would be recorded by local authorities and submitted as part of the decision-making process.

Chairman: I will take the Green Party's second slot. Why do we need a fast-track planning system? Pre-SHD, planning applications concerning approximately 80,000 or 90,000 units were being dealt with. Fast-tracking planning does not guarantee that anything will be built. For too long, planning has been a whipping boy for why development does not take place. I am interested in why we need a fast-track planning system at all.

Mr. Paul Hogan: That is a very relevant question but the reality is we are all agreed that we need more housing and we need the planning system not to be perceived as a barrier to its delivery. That is always one of the first things people say when they talk about housing delivery. The regulatory process should be relatively straightforward when land is identified as being zoned for housing. We have not changed that. There is very little difference at the middle eight-week stage to most other types of planning application. There is still eight weeks for making a decision. The big difference is in the pre-application stage, which tries to iron out as many things as possible upfront. That is not unreasonable when it comes to housing development for a whole range of reasons. We have already talked about the need to strengthen development plans and local area plans.

Chairman: I will come in on the issue of the pre-application stage, the documentation that will be made available to the planning authority and this limitation on further information requests. It needs to be made very clear and imperative to developers that they bring in high-quality documentation and environmental impact assessments, that they comply with every aspect of planning requirements at the pre-application stage and that they do not dip a toe in the water to see what the planning authority says before they take a punt on their application. They need to be very clear and they need to do their homework. Many of these judicial reviews have been successful because those matters have not been addressed correctly. The further information request of a local authority should not be limited. I accept that it can cause delays, but if local authorities need to request further information there should not be a limit placed on them. The onus should be on the developer to submit high-quality documentation. It should be the developer that gets penalised if he or she does not do that. The planning authority should not get just one shot at it.

Mr. Paul Hogan: That is already the case. If a developer wants to have a smooth passage towards development consent or permission he or she has to submit high-quality compliance submissions. The better developers always do. The question is how we embed that in the sys-

tem across the board to ensure it happens in all cases. There was some concern, perhaps, that reverting to the two-stage system meant that the initial local government stage might be seen as a sort of trial run for the inevitable appeal. That can be avoided by ensuring the earlier stage is strengthened.

Chairman: The opening statement, which I cannot find at the moment, lists who was part of the consultative forum. Was anybody with expertise in European planning law, or environmental planning law, part of that consultative forum?

Mr. Paul Hogan: First, it was not a legal forum. It was a practitioners' forum to consider the operation of the system and the operation of the regulatory planning system as opposed to the issues. There were not lawyers or environmental experts.

Chairman: I thought it would have been beneficial because we have had so many judicial reviews that have been based on environmental planning law or EU environmental law and considering that SHDs have created so many judicial reviews. I thought that would have been appropriate.

Mr. Paul Hogan: Those issues have been considered separately by the Office of the Attorney General and the Attorney General would certainly have advised the Department and Minister. We do have people with in-house expertise in European law as well who would have engaged with the principals within the planning section - me, Terry Sheridan and others. It is not that this was not incorporated into the process. It was just that the consultative forum concerned practitioners.

Chairman: I get Mr. Hogan's point that this is a planning process and is not necessarily to do with environmental planning law. However, one of the complaints about SHDs is that so many judicial reviews have been brought that I would have thought it might have been informative to state the quality of documentation and things that need to be addressed in the pre-planning application process to hone that process. Could the pre-planning process documentation, minutes, responses and requests be made available when a section 34 is submitted? Could this be incorporated in the Bill?

Mr. Paul Hogan: It is subject to consideration but there are issues with people being distracted by what was discussed. I think we used the term "filter" at negotiation. People need to understand what the proposal that is being subject to determination is and what the issues are relating to that as opposed to necessarily what might have been discussed at that filtering stage or as part of the overall negotiation that led to the application. Obviously, at some point, it is useful for all of that information to be available in the public domain. The question is whether it is better to do this after the decision has been made. That is generally the way with pre-planning information.

Senator Victor Boyhan: When there was initial talk about the fast-track planning, the then Minister, Deputy Coveney, suggested a threshold of 200, not 100. We know this was the subject of much debate. I think there were a number of freedom of information, FOI, requests and this information entered the public domain. Is the Department looking at the possibility of increasing the threshold from 100 to 200 units, something suggested by the Minister who was the architect of all of this?

Mr. Hogan will be very familiar with strategic development zones, SDZs. They are very specific and very set down. A major concern was expressed in the Department's mid-term re-

view to which I referred to earlier and by people today who live close by these SDZs. There is a significant degree of certainty about them and, of course, permission must be granted if the general scheme application is compliant and fits in with the criteria. One of the recommendations to which I referred earlier was that this capacity for the SHDs be removed and the fast track be removed from the SDZs. Now we are moving on to the large-scale residential developments, LSRDs. Has the Department given any further consideration to that recommendation? Does it not see the benefit of not permitting? I do not believe we should permit any LSRD in an SDZ. I believe it is wrong. They are very complex. Half the thing about confidence building in these schemes is that they are agreed upfront and there is a degree of certainty about them. I will certainly make a very strong recommendation to this committee in its final deliberations that they would be excluded. I would be interested in Mr. Hogan's view on that.

Regarding the further information request, I am still concerned. I spoke to some planners yesterday who told me how they use the mechanism. I am not suggesting it puts manners on a developer but they have this tool, as does the board, to request further information. It puts the focus on. I know the Department is trying to tighten up times and I am all for that and for having a faster process but I have concerns. We need to look at it and when we explore this with the CCMA we may hear a different story in two days' time. We must be careful. I advise some concern around that.

Mr. Paul Hogan: There was discussion. The recommendations of the group in 2019 indicated we might consider making strategic housing developments more strategic for larger scale schemes. The issue is that, depending on where you are in the country, 200 units is either significant or very significant. In Dublin it is not as significant as it might be in a smaller town or city. On balance, it was decided to leave the figure at 100. That was carried forward in the discussion of the group in relation to the current proposals. It was felt easier to work with what people understand and keep it as consistent as possible. I do not know if Mr. Ryan wants to add anything to that.

Mr. Colin Ryan: Mr. Hogan has laid out the position. We thought on balance that it is understood it is 100 units and, outside of Dublin, that is a significant development at this time. It is about balancing the need for relatively large developments to be accommodated around the country in suitable and appropriate locations.

Mr. Paul Hogan: On the question on strategic development zones, as far as I am aware, the provision is excluded from SDZs, exactly as the Senator has said. The nature of what is envisaged to be developed is already set out so that logic applies. That was also one of the recommendations of the review group in 2019.

In relation to the further information request, it is largely developers that we wish to build developments to provide housing. Putting manners on them is not our primary motivation.

Senator Victor Boyhan: It is an opportunity.

Mr. Paul Hogan: The tool will still be there but the purpose is to ensure we get the best quality and right sort of development and that it is built.

Senator Victor Boyhan: Mr. Hogan said the tools will be there. Could be elaborate on the tools he has in mind and that can apply?

Mr. Paul Hogan: At the penultimate stage prior to an application, there will be a final determination of what is required which will be communicated to the applicant in a way that

does not happen at present and did not happen prior to SHD. There will be clarity as to what will obviate further information requests. If significant issues or matters of conflict with policy, particularly environmental policy, arise, they will have to be addressed at that stage. That might be a make or break for the whole thing and it cannot proceed. The question will be whether it is something that can be reasonably dealt with by further information or something that has to be refused. These are not insignificant undertakings for anyone, whether it is the public which has got involved or the developer who has made the application. There needs to be that sort of outlet, where required. All the detail is not yet worked out. We are still on the legislation.

Senator Victor Boyhan: I thank Mr. Hogan.

Senator Mary Fitzpatrick: I have listened to the debate and I know the restoration of the democratic process and decision-making at local authority level has been warmly welcomed by everybody. I appreciate the witnesses have taken on board most of the feedback we have made. I want to return to where we were in my earlier contribution. I fully accept the facility that exists for elective representatives to make an observation and the waiving of the fee and all of that. There is a certain inconsistency in how that is supplied between local authorities. There is that issue. It is important there is a uniformity of operation for local authority members in all our local authorities, more importantly now when these huge planning applications will be reverted with the decision-making taking place there.

The other function the statutory meeting provided was not just an opportunity for a discussion at an area level among the elected representatives. As those meetings were webcast, it was a very valuable resource for residents, representatives and people interested in the community to see a formal presentation made by professionals who were then able to answer informed questions from the elected representatives. The recording of those meetings and the availability of that information for local communities, I do not believe can be overstated. I appreciate there will be an eight-week timescale but I strongly urge that it is an element of the previous SHD process - which I have obviously argued strongly against - that is retained because it is valuable on a number of levels. The witnesses do not need to reply to me on this right now; I will not take up more time. That was the point I was trying to make. I thank the Chair for allowing me back in.

Chairman: I thank Senator Fitzpatrick. I agree with her. It was a very good opportunity for the public to attend and, when the meetings were in person, to look at the presentation of it. I will now go to the third Fine Gael slot and then to the open round, in which Deputy Ó Broin has indicated and I wish to take a second slot. If members want a third round, they can put their hand up now. Do we have an indication on who will speak in the third Fine Gael slot?

Deputy Emer Higgins: I will. This has been a very useful discussion. Senator Fitzpatrick has summed up quite well one of the points that was put forward by a number of public representatives that, perhaps, has not quite hit home at this stage. I also believe it would be useful if we have those meetings. One thing that was probably missed in the SHD legislation was around the fact that when those websites were live, sometimes they were hard to find. If, for example, people typed in the name of the website plus "SHD" but, due to the search optimisation, Google did not necessarily bring them to the site. That was something which, perhaps accidentally, somewhat limited the opportunity for engagement, for the understanding of the plans and, consequently, for consultation. What we set out to do here is cherry pick the things that worked from the SHD legislation and bring them into this new piece of legislation. There is an awful lot of good around the public consultation element, the use of the websites and the use of those public consultation meetings. I would like to see that reflected in the legislation.

Chairman: Does Mr. Hogan wish to respond to that?

Mr. Paul Hogan: We hear the message from committee members loud and clear. Definitely, the things that work and are positive, we all wish to see them retained with the caveat, perhaps, of not overloading the system bearing in mind that it is somewhat different when it is within the local authority and it is the council that is making the decisions. That is the fundamental difference but I think members will take that into account in their deliberations.

Chairman: We are into the third round of questions now; we have covered all the members. Deputy Ó Broin had his hand up first and I will take a slot after him. The Deputy can go ahead. I see Senator Boyhan has also indicated.

Deputy Eoin Ó Broin: I will go through the questions one by one rather than giving the witnesses a big list. Whatever we do not get to, we can return to later. The witnesses said they will provide some statistics later. It would be great to get the percentage of individual units commenced of the 52,000 units in total. Likewise, it would be great to get a breakdown of the judicial reviews of residential SHD applications because obviously there are a lot of judicial reviews out there on environmental grounds that relate to strategic infrastructural developments.

On head 4 of the Bill and the 30%, I presume I am right in saying that while 30% will be in the Act, that will be dependent on what is in the relevant city or county development plan and the zoning for the particular piece of land in question. This would not in any way trump that. That is a straightforward yes-no question.

Mr. Paul Hogan: Yes, absolutely. I am not sure zonings are necessarily that prescriptive but they could be.

Deputy Eoin Ó Broin: On head 5 with respect to pre-planning, I am a strong supporter of a statutory timeline for this. Was any consideration given to providing some level of public consultation and access to documentation during pre-planning? If not, is the Department confident that the proposition outlined in this head is Aarhus compliant?

Mr. Paul Hogan: I would defer to colleagues who may have been party to somewhat more detailed discussion than me but I would certainly say that it is Aarhus compliant. This is part of the deliberative process; there must be some capacity to bring forward ideas and discuss proposals with a degree of confidence. There can be matters of confidentiality, business sensitivity and all of that. The proposals that are put forward may go nowhere and may never see the light of day. There has to be a degree of discretion and confidentiality around all of this before things are in the public domain.

Deputy Eoin Ó Broin: On head 8 and the Minister having the power to prescribe the specific issues that can be addressed by way of further information requests, one of my concerns is that if we restrict what additional information can be requested at that stage, after the substantive decision by the planning authority, we may run into trouble with our obligations under EU environmental directives, for example, or water directives. Will local authorities still have the scope to request whatever information is required to fulfil their statutory obligations under EU law at that stage, notwithstanding what has been discussed at the pre-planning stage?

Mr. Paul Hogan: As I said, this is evolving to a certain extent so I am not sure all of that has been prescribed in the legislation. There is scope for regulations here. I absolutely agree that we have to ensure that our European environmental obligations can be met. There is no question of these things being ignored or set aside.

Deputy Eoin Ó Broin: We have a bad record in the meeting of some of those obligations and we are currently being fined for some of them on planning grounds. We are trying to make sure that we do not make the mistakes of previous planning legislation and planning decisions.

Mr. Paul Hogan: I do not think it is necessarily to do with the operation of the regulatory planning system. These things are well taken into consideration.

Deputy Eoin Ó Broin: I have one last question. Why are we giving the board an opt-out from meeting its statutory timeline if it feels it cannot meet it? What is the rationale for that? We expect the local authorities who make the principal assessment of the application, which is much more onerous in my view, to meet their timeline. Why is the board, under head 9, subsection 3, getting that slight flexibility if it does not feel it can meet the timeline? Am I misunderstanding it? I see Ms Gallagher is shaking her head.

Ms Ciara Gallagher: No, it is slightly incorrect in head 9. We are proposing to amend that and maybe bring in a penalty for the board if it does not meet its timelines, similar to what applies to local authorities.

Deputy Eoin Ó Broin: Why would the board be given that opt-out? Is Ms Gallagher saying the Department will remove that opt-out and it will simply be sanctioned-----

Ms Ciara Gallagher: We will remove the opt-out but it is a question of at what point, if a decision is late, it will be penalised. We do not want decisions to be rushed or not made because time ran out. A penalty will stop the board from availing of that too often.

Deputy Eoin Ó Broin: Have I time left or have I run out?

Chairman: There is only myself and Senator Boyhan left so you have another minute.

Deputy Eoin Ó Broin: I think Mr. Ryan wants to come in.

Mr. Colin Ryan: It is very similar to what prevails at the local authority stage-----

Deputy Eoin Ó Broin: I am much more satisfied with that explanation. That makes much more sense to me.

The big question is that it is proposed to allow SHD applications in certain circumstances, according to head 13, which relates to the transitional arrangements, up to 25 February if they are in the pre-planning SHD process. Surely the logical thing would have been to stick with the original sunset clause in the original legislation as passed by the previous Government to have the cut-off point at the end of the year. People have plenty of notice, given that this is being published now. Why are we allowing for that further extension? It is not unlike the co-living ban. It means we will still have SHD application decisions being made well into the middle of next year if we allow these transitional timelines.

Mr. Paul Hogan: The legal advice is unambiguous that the effect of the eight-week suspension of statutory periods does affect the relevant Act for SHD. Therefore, if we were to stick with the original date, I think we would find ourselves, again, in breach of that.

Deputy Eoin Ó Broin: Was that legal advice with respect to SHD applications that were in train at the time of that eight-week pause or does it apply to all applications that may or may not come in after that eight-week pause? I understand that anything that was affected by that pause clearly should have got eight weeks extra - no problem - but that was a year ago, and it

will be a year and a half ago, almost, from when these potential SHD applications will go in. Is Mr. Hogan saying the legal advice was relevant to future applications that had not yet entered the planning process, either at the pre-planning or planning stage, at that point in time?

Mr. Paul Hogan: I am not sure whether we have sought or received advice on that specific matter, but certainly the interpretation-----

Deputy Eoin Ó Broin: That is the matter under question here, surely.

Mr. Paul Hogan: There is no confusion or debate about the interpretation. If nothing happens, if there is no replacement legislation, SHD terminates on 25 February, so it is possible to make a planning application under SHD up to 25 February on that basis.

Deputy Eoin Ó Broin: What Mr. Hogan is saying is that the legal advice was related to SHD applications that were in train at the time of the pause, not future applications as yet unapplied for. It is an important difference, surely.

Mr. Paul Hogan: The advice I am aware of relates to the applicability of the eight weeks. Others might know if more advices were sought.

Mr. Conor O'Sullivan: I think the legal advice basically states that the eight-week extension applies to all timeframes set out in the legislation. Therefore, where there is a specific date, that date is then extended by the eight weeks. Regarding SHD, the date is 31 December and you then apply an eight-week timeframe specifically onto the end of that, which brings you into the end of February.

Chairman: We are almost up to eight minutes, Deputy Ó Broin. I have to move on.

I have a question in this open round. There are time limits on the pre-application process. The local authority has to agree to a meeting within four weeks of a request and then issue the decision, or its opinion, within four weeks, I think, of that final meeting. Is that so? Is the entire pre-application process time-bound? If a developer applies to go into the pre-application process and puts in a request for something preliminary before that final meeting, is the developer considered to be in the planning process? I ask that question in the context of land on which development has stalled or is not taking place. Would that be possibly used as a reason to say "I am in the planning process now so I am trying to develop this land"? That might create difficulties in applying vacant site taxes or levies. My question is whether the entire pre-planning application process is time-bound.

Mr. Paul Hogan: There are preliminary stages to the preliminary eight weeks in respect of the normal section 247 pre-planning stage and possibly even before that. There might be just an inquiry about something that might not necessarily be a formal proposal, so there are earlier stages but the application does not become formal until there is a section 247 request and does not become part of this process until the initial eight-week period request. To respond to the question about this being used as a defence against a successor to the vacant site levy or similar, it is not envisaged that planning activity would be a means to avoid liability. Clearly, this is something that is emerging and will emerge separately, but the reality is that what we are trying to achieve is activation and commencement. Further planning activity is not necessarily the objective. For that reason, we would not see it as being related.

Chairman: That will be-----

Mr. Conor O'Sullivan: If I could just add something there on the timeframes.

Chairman: Go ahead.

Mr. Conor O'Sullivan: There are two separate pre-application consultation phases, under section 247 and section 247(a). Effectively, a prospective applicant can engage in the section 247 process and there is no time requirement on them to proceed to the next stage, the section 247(a) process, so they can decide whether to move on to the section 247(a) process and at what stage they do so. Once they then decide to make an application to the local authority for the section 247(a) final consultation meeting, as we are calling it, there is an eight-week process for the determination of the opinion of the local authority, which has been outlined. Once that is received, the legislation states the opinion will only be valid for one year. Therefore, once people are in receipt of that opinion, they then have to proceed to make the planning application within one year or they have to recommence the process again.

Chairman: Do they have to go back to section 247 or section 247(a)?

Mr. Conor O'Sullivan: They have to go back to the section 247 and restart the process. They no longer have a valid section 247(a) opinion, so they have to recommence the entire process.

Chairman: On a specific point on the quality of documentation submitted with planning applications for large-scale housing developments, I note - and I have looked at many of these applications and I am sure many of the members have - an applicant will often put in the number of schools that are in an area, the capacity of those schools, but not necessarily the excess capacity or the capacity of the schools to deal with that increased population that may happen in the area. I take the point made by Mr. Hogan earlier that the development of 100 houses in a large urban area may not have a massive impact, but in a smaller area, it can, and can overload the school system where the system may not even have that capacity. Is it something that could be sought, whereby in the pre-planning application stage the local authority could require the applicant to show the excess capacity in that school as the development is built and populated and what the demographic requirement would be in that area? Is never seems to be a requirement of a planning application.

Mr. Paul Hogan: In most instances, it would not, and should not, be a requirement of a planning application unless it has been identified as an issue and is something that is flagged up in a relevant local area plan or similar as an issue to be addressed as part of the planning. It should not necessarily be the responsibility of the developer of 100 homes to address an issue of school capacity.

Chairman: I am not saying that they have to address the issue of school capacity. We pay a lot of attention to the utilities that are required for houses; we do not often pay enough attention to the services that are required to make them homes. We always look at waste water and drinking water capacity, and even road capacity. Public transport is another factor. I have often seen an application being submitted, which states that the development is in close proximity to public transport. It never gets down to the nitty-gritty detail of how often that bus arrives and what the expected modal use might be as opposed to cars and public transport. In a way, it is tokenistic. The application will state that there are plenty of schools nearby and there is public transport. These are the issues that generate difficulty in a local area.

Mr. Paul Hogan: The issue that I have mentioned a couple of times is that we do go straight

from, for example, a coloured zoning map to a specific development proposal. What we need to do is strengthen our intermediate or local plans to address those sorts of issues on a cumulative basis. Issues such as schools, public transport and recreational facilities for the community should be part of that local planning, bringing some of the better elements of strategic development zones into the normal forward planning system. That is certainly something we wish to follow up with. It should be more to do with development services when you are dealing with a planning application. I accept that if these other issues have not been considered, clearly there is a frustration and there may be no other outlet but it should properly be dealt with as a planning exercise upfront. If there are obligations on a particular site or applicant, that is okay and it can then be brought in, but it is not reasonable if it has not been considered earlier.

Chairman: Sure. I appreciate primary legislation is probably not the place to put in those specifics but it is something that could and should be addressed in those pre-planning application processes in section 247. I thank Mr. Hogan.

Senator Victor Boyhan: I will be brief. I thank the officials for being here. What is clear, and I have not seen this in a long time in this committee, is the cross-party support for continuing to support the consultation channels that have been established for city and county councils. It is coming over strongly and I expect to see that reflected by the officials when the Ministers are engaged on this issue. It is a very important thing.

I want to make a point. Mr. Hogan has stated on a number of occasion that elected members like councillors have a right to make a submission on a planning permission without a charge. He will recall, or Mr. Terry Sheridan certainly will, that it was a tough battle I had in Seanad Éireann against all the Government parties in the previous Administration. They opposed it. They did not even produce, were not able to produce, or chose not to produce tellers to count the vote. That is the reality of it. There was huge resistance by the officials and by the Minister. On the suggestion today that this was a great opportunity, while I do not doubt Mr. Hogan's commitment to it, I must say the Department was not supportive of it. The Official Report shows there was huge resistance by the then Minister and Minister of State to this. However, we have it now. By the way, it was agreed for primary legislation but it was not embedded into the primary legislation. Instead it was a statutory instrument. Consequently, we almost have to watch that space and guard it.

Mr. Hogan is suggesting that is an important mechanism and I agree, but they are unique people who represent their communities and have a democratic mandate. What I like about that process is it is a written, open and transparent process. If we have learned anything from planning tribunals it is that we must have an open and transparent process of engagement with elected members and politicians and the planning authorities. I propose that be retained and we will watch that space carefully. We should also continue with the consultation channel that exists under the Act, currently in section 8(4) and (5), so we retain that. They are the two strong messages I wish to leave with the officials today.

Back in the early days of Rebuilding Ireland we were told one of the key measures would be that we would have a state-of-the-art information technology system for An Bord Pleanála. We still do not have it. It has gone on for years. We have been promised by the board and officials from it keep coming in. They have loads of resources, they have the ability and they have the capacity. This hinges on my final point that it is about public engagement and about ensuring there is confidence in our planning system and planning processes. We all agree that needs to happen and be cemented and secured. The officials may not be in a position to fully tell us today but will someone chase up An Bord Pleanála so we can get a written briefing on

where we stand after all the years of promises about a state-of-the-art system? Covid taught us one thing, namely, people want to engage, to be smart and to use technology. We must use technology within the planning systems and that must be a priority for us. Perhaps the Department will come back to the committee with an updated report on where we are on this aspect of good modern planning.

Chairman: Does Mr. Hogan have a comment on the e-planning, or the updated planning system?

Mr. Paul Hogan: I ask colleagues to come in on this briefly as well because it is an area Mr. Ryan in particular has been working on from the local government perspective. An Bord Pleanála has been developing its system as well. Its systems are horrendously complex and they do take time when things are system-wide and you are integrating what has maybe been done separately 31 times. I am not talking about anywhere in particular. It is more that that has been our experience of it. Covid-19 has been a very important acceleration for all of this and it is happening. I do not have the timelines or whatever to hand but we will expect to see much better systems for all users including developers, the public, officials, elected members, Deputies and Senators. Mr. Ryan and other colleagues may wish to add to that.

Mr. Colin Ryan: I thank Mr. Hogan. The Senator raised a very important point on ICT infrastructure and the issue that was raised earlier on as to its streamlining and processes internally within local authorities. We are working very closely with the Local Government Management Agency and the CCMA to roll out, from a local authority point of view across the 31 local authorities, a new planning system that is currently in development at present. It is at an advanced stage and we should be trying to test that in the coming while with a view to rolling it out next year.

Chairman: We seem to have lost Mr. Ryan at this point.

Mr. Colin Ryan: My apologies. We are working hard on that. On Plean-IT, the An Bord Pleanála system referred to by the Senator, that is being worked through. Perhaps Mr. O'Sullivan or Ms Gallagher could provide a short update on that matter. The issue of streamlining the processes the Senator has raised is very important. At the same time as well, the quality of information would improve, at least from a visualisation and clarity standpoint as to drawings.

Chairman: I agree with Mr. Ryan. One of the good things about the SHDs, if one is allowed to say something good about them, is that the websites were of quite good quality and they were often much easier to navigate and to see the documentation and drawings than would have been the case had it been a normal section 34 application through one's local authority. That was my experience, having looked at some of the developments. Did Ms Gallagher wish to contribute on this point, to be followed by Deputy Ó Broin?

Mr. Conor O'Sullivan: I would like to come in there please, Chairman, to provide some information briefly on the Plean-IT system. In November last year the board did initiate a system for the online facility of public submissions on SHD applications with a fee. I think it has made further progress in the months since that time. It has launched a new website since April this year. The focus of staff internally is to look at facilitating the submission of online applications again with the associated fee for strategic infrastructure developments. After that they will move on to ensuring that the facilities are in place then for a public application on a normal planning appeal to be made online.

Chairman: I thank Mr O'Sullivan and if Ms Gallagher wishes to come in, she may for a minute and then Deputy Ó Broin can do so. I apologise as I did not see his hand; I keep losing sight of the screen here. I can allow the Deputy then in for another minute.

Ms Ciara Gallagher: I am okay Chairman; Mr. O'Sullivan has covered the point.

Deputy Eoin Ó Broin: I thank the Chairman for his patience. I have three outstanding questions from the original list of ten and I will rattle through them quickly.

In subsection 14 of head 6, where a person should not question the validity of any action taken or opinion from a planning authority, what does "not to question" mean in plain English? Obviously there is a very specific intent in that and I ask for that to be explained.

Similarly on head 12, where it talks about exclusion from entitlement to compensation, for clarity could I have a couple of real-world examples of what that might look like?

The one-year gap between the outcome of the preplanning and the submission of the planning application itself seems very long. What is the rationale for that length of time given that in the intervening period, other people may come in with other applications and construction may commence that could be materially relevant to the final application? I would have thought that three or six months would be logical. If this is about streamlining the process, why are we giving an applicant a year? I am sure there is a reasonable amount of time but 12 months seems very long indeed.

Mr. Paul Hogan: Colleagues may wish to add to my response. On the first question, it will be a matter of legal drafting. It is to reserve the position of the decision maker. At the end of the day, it is an evolving process. Clearly, certain information-----

Deputy Eoin Ó Broin: Apologies for interrupting. Mr. Hogan used the word "reserve". Will he indicate from what is this reserved? Is it from a legal challenge?

Mr. Paul Hogan: Exactly.

Deputy Eoin Ó Broin: It is just an explanation I am looking for rather than a justification.

Mr. Paul Hogan: As far as I can see, I understand that it is simply to prevent legal challenge of every little thing just because there might be a dispute or a disagreement at the pre-planning stage in respect of something that is not covered, and that there would be no foothold for someone who has an issue. That could be the first party as much as the third party in this instance.

I am not too sure on the issue of compensation so I will ask Mr. O'Sullivan or Ms Gallagher to come in on that.

Mr. Conor O'Sullivan: We will come back to the Deputy. If he wants to submit a question on that, we can come up with some real-world examples for him.

Deputy Eoin Ó Broin: Why is there 12 months between pre-application and application?

Chairman: We must wrap it up after this because we are over time.

Mr. Paul Hogan: That was considered to be a reasonable period. Having got to that stage, there may well be quite significant requirements that someone may need to reflect on or give effect to. Coming back to the environmental legislation, for example, a person could have an appropriate assessment issue or an issue that needs to be monitored over the course of one full

year or a particular season. Let us say the issue is bats. Bats are only active in a certain part of the year. If an application is made at the wrong time of the year and gets to the stage where that issue needs to be covered off before a final application is made, the applicant might need that year in which to ensure that the right months are available to assess the bat issue, report on it and incorporated that into the final proposals. The one-year period ties back in with the appropriate assessment consideration of a seasonal year.

Chairman: I thank Mr. Hogan, Mr. Ryan, Mr. O'Sullivan and Ms Gallagher for their attendance. This discussion has been very helpful to the committee in considering its pre-legislative scrutiny of the general scheme of the Bill.

The joint committee adjourned at 2.32 p.m. until 12.30 p.m. on Thursday, 9 September 2021.