

## Provision of information to members of the Oireachtas by An Bord Pleanála

Quarter 1 2020 : 1 January 2020 to 31 March 2020

Query Number	Date Received	Acknowledged	Deputy / Senator	Query Subject	Query	Substantive Reply Issued	Substantive Reply	Language	Quarter	Year
OIR/20/001	28/02/2020	28/02/2020	Deputy Catherine Murphy TD	Appeal Case (Live);#Decided Case;#Housing	<p>In respect of Strategic Housing Developments, can ABP offer the deputy guidance in respect of the legality of developers inserting into contracts of sale a clause that prohibits the potential buyer of a home the constitutional right to object to additional plans by the developer to build units on the same development area?</p> <p>We have concerns, and documented evidence that developers are gaining planning permission from ABP to build houses in an SHD , in the processes of selling homes the developer then moves to build a block of apartments for example, the intent of which has not been disclosed to the buyer of the original home and that buyer is then slapped with a non objection clause in their contracts.</p>	16/03/2020	<p>An Bord Pleanála's role in determining planning applications, including Strategic Housing Development applications, is restricted to issues relevant to planning or, in the case of grants of planning permission, relevant in planning terms to the development to be permitted. This general "planning" jurisdiction does not, in the opinion of An Bord Pleanála, cover the matters you have raised in your query. These matters appear to An Bord Pleanála to relate to conveyancing and legal agreements between parties which arise outside and after the conclusion of the planning application process.</p> <p>An Bord Pleanála's general approach is guided by the various provisions of the Planning and Development Acts 2000 to 2019 – in that context, for example, section 34(4) of the 2000 Act sets out various planning matters which can be subject to conditions of a planning permission. The Development Management Guidelines for Planning Authorities (including An Bord Pleanála), as published by the Department of the Environment, Heritage and Local Government in June, 2007 also advise that conditions to be attached to any planning permission must be related to the development to be permitted and may, if otherwise, be <b>ultra vires</b> and unenforceable (see Chapter 7 of those Guidelines).</p> <p>An Bord Pleanála therefore considers it has no statutory or other jurisdiction to get involved in the issues raised in your enquiry. Having regard to the nature and details of your query it is <b>suggested</b> that this may be a matter that the Office of the Attorney General <b>may</b> be able to assess and/or give advice on.</p> <p>It is regretted that An Bord Pleanála considers that it cannot be of further assistance to you in relation to this matter.</p>	EN	Q1	2020