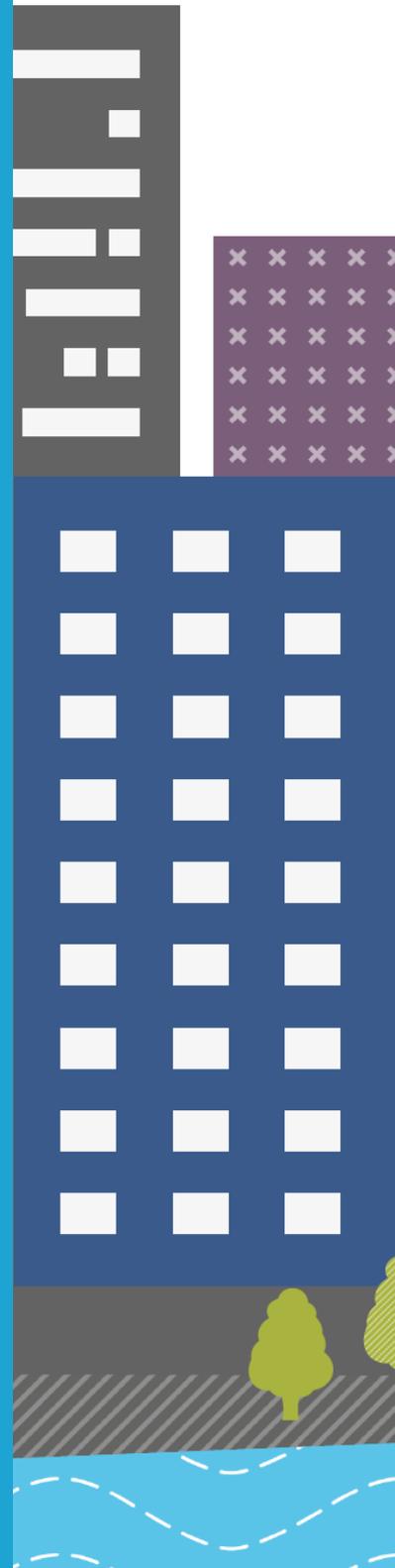


An
Bord
Pleanála

Making an observation on a Strategic Housing Development application

Prescribed Bodies

November 2020



About this guide

This guide provides information on how you can give your written comments to An Bord Pleanála on a Strategic Housing Development application case. When you give your comments, you are said to be making an observation or a submission. This guide will use the term observation and will help you to make a valid observation on a Strategic Housing Development application case.

This guide is published to provide general information, assistance and guidance only. It is not a legal interpretation of the legislation. Readers must follow the relevant statutory provision for their own particular circumstances and, in doing so, should obtain their own expert advice if necessary.

Data Protection

An Bord Pleanála uses your personal data only to provide our services and to fulfil our legal duties. The personal data you supply will be circulated to other relevant parties and made available in the public domain about any matter before An Bord Pleanála.

To view our full policy statements on Data Protection, please go to www.pleanala.ie.

The National Adult Literacy Agency (NALA) has awarded this document its Plain English Mark



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Terms

Some terms we use in this guide are:

Act	A law that has been passed by the Oireachtas (parliament) and approved by the President.
Agent	A person who acts on your behalf in an appeal, application or referral.
Appropriate Assessment (AA)	An examination of a plan or project to evaluate how it might negatively affect a site which is protected under the EU Habitats Directive. (This is a directive about wildlife and nature conservation.)
Board	The Board of An Bord Pleanála.
Environmental Impact Assessment Report (EIAR)	A document an applicant prepared that assesses the likely significant effects on the environment of a proposed development.
Invalid	Does not meet all of the statutory requirements needed by law and regulations to be considered a case.
Lodged, to lodge	To give or submit something to An Bord Pleanála.
Observation	A document submitted by an Observer (see also Submission).
Observer (Applications)	Any person, other than the applicant, who comments on the application.

Opinion	<p>Within three weeks of the last pre-application consultation meeting, the Board will form and issue an Opinion to the prospective applicant. The Opinion will state whether the documents submitted for the pre-application consultations:</p> <ul style="list-style-type: none"> • are a reasonable basis for a strategic housing development application, or • if more consideration or changes to the submitted documents are needed.
Oral hearing	<p>An oral hearing is a meeting to allow relevant issues in a case to be discussed and examined.</p>
Our	<p>An Bord Pleanála.</p>
Planning authority	<p>The local authority – county council, city council, or county and city council – responsible for planning in its area.</p>
Planning and Development Act 2000; Planning and Development Acts (as amended)	<p>An Act of the Oireachtas passed in 2000 about matters governing the planning system in Ireland. Parts of this 2000 Act have since been changed or amended by several other Acts. Together these Acts are known as the Planning and Development Acts 2000 to 2020.</p>

Pre-application consultations	Compulsory process where a prospective applicant consults with An Bord Pleanála and the relevant planning authority about a proposed strategic housing development. The prospective applicant gives required documents to An Bord Pleanála. One or more meetings also take place. These consultations allow An Bord Pleanála to form an Opinion .
Prescribed body	An organisation or body specified in regulations made by the Minister for Housing, Local Government and Heritage.
Prospective applicant	Someone who may wish to apply for permission for a development.
Public access	After a decision has been made on a case, you can view the decided planning case file within three days after the decision. This is called public access.
Regulations	A law or rules made by an Act or sometimes a Government minister.
Scoping	An optional procedure contained in EU directives. Scoping allows a prospective applicant to ask the consent authority (for example: An Bord Pleanála) to give an opinion in writing on what information is needed for a proposed development in terms of: <ul style="list-style-type: none"> • an Environmental Impact Assessment Report (EIAR), or • Natura Impact Statement (NIS).

Screening	An optional procedure where a prospective applicant can ask An Bord Pleanála for an Appropriate Assessment (AA) screening determination for a proposed development.
Statutory	Something that is decided, set up or controlled by statute law. Statute law is a law passed by parliament.
Statutory requirements	Requirements needed by law for a case to be valid.
Strategic housing development (SHD)	Applications for planning permission that go directly to An Bord Pleanála for certain housing developments.
Submission	A document on appeals or applications which may include supporting materials such as photographs, plans, drawings and technical guidance. (The document can be typed or handwritten.)
Valid	Meets all statutory requirements needed by law and regulations to be considered by us.
Us	An Bord Pleanála.
We	An Bord Pleanála.
You	You as a person, company, group, organisation or State authority.
Zone; Zoned	An area of land which may be allowed to be developed for certain uses as set out in a: <ul style="list-style-type: none"> • City Development Plan, or • County Development Plan, or • City and County Development Plan.

Prescribed bodies list

The prescribed bodies for strategic housing development applications are listed in the following table.

A local, regional or planning authority	
<p>A State authority. For example:</p> <ul style="list-style-type: none"> • A Government minister • The Commissioners of Public Works (OPW) 	
<p>A body referred to in article 28 or 137 of the Planning and Development Regulations 2001, as amended. For example:</p>	
An airport operator	Health Service Executive (HSE)
An Chomhairle Ealaíon	The Heritage Council
An Taisce	Inland Fisheries Ireland
CIÉ	Irish Aviation Authority
Commission for Railway Regulation	Irish Water
Commission for Regulation of Utilities	National Transport Authority
Environmental Protection Agency (EPA)	Transport Infrastructure Ireland (TII)
Fáilte Ireland	Údarás na Gaeltachta
Health and Safety Authority (HSA)	Waterways Ireland
Royal Irish Academy	
<p>A development agency. For example:</p> <ul style="list-style-type: none"> • The Industrial Development Agency (Ireland) • Enterprise Ireland • The Shannon Free Airport Development Company Limited • The National Building Agency • The Grangegorman Development Agency 	

A **Transboundary State (cross border)** that is a member of the European Union other than Ireland or a party to the Transboundary Convention.

Any **other person** prescribed by the Minister for the purposes of Part IX of the Planning and Development Act 2000

Section 169 of the Planning and Development Act 2000 covers the making of planning schemes for strategic development zones. Under article 179 of the Planning and Development Regulations 2001, the following are designated as prescribed authorities for section 169 of the Planning and Development Acts:

- a regional authority whose area includes a draft strategic development zone planning scheme, and
- a planning or local authority whose area is within or adjacent to the strategic development zone site(s).

Before making an observation

What is Strategic Housing Development?

Strategic Housing Developments (SHD) are applications that go directly to An Bord Pleanála for decision. These decisions cannot be appealed. Some of the types of application under strategic housing developments are:

(a) 100 or more houses	The development of 100 or more houses on land which is zoned in the local development plan for residential use. Land may also be zoned for a mixture of residential and other uses.
(b) Student accommodation units	The development of student accommodation units which would contain 200 or more bed spaces. The proposed site is zoned to allow student accommodation in a City Development Plan, or County Development Plan, or City and County Development Plan. The zone may also allow a mixture of student accommodation and other uses on a site.
(c) Mixed development of housing and student accommodation	Development that includes a mix of houses and student accommodation.

<p>(d) Alteration of existing permission from a planning authority</p>	<p>An applicant received planning permission from a local planning authority for a development under section 34 of the Planning and Development Acts. The applicant now wishes to make changes to the development. The changes will now mean the revised development falls into categories (a), (b) or (c) and an application for the change must be made to An Bord Pleanála.</p> <p>For example: a development was granted permission for 96 homes. The developer now wishes to build 5 further homes making a total of 101 homes on the site.</p>
<p>(e) Alteration of existing permission from An Bord Pleanála</p>	<p>An applicant received planning permission from An Bord Pleanála for a development under the Planning and Development (Housing) and Residential Tenancies Act 2016. The applicant now wishes to make changes to the development.</p>

How will I know when an application is made?

Before an applicant submits a SHD application to An Bord Pleanála, they must do two things:

- Publish a newspaper notice about the proposed development. The newspaper must circulate in the local area.
- Put up a public site notice at the site of the proposed development.

Both the newspaper notice and site notice should give the location of the application and describe the proposed development. The notices should also inform the public of the times and places where the application can be viewed free of charge.

Where can I see or get copies of the application?

There are two ways you can see or get copies of the application.

A website where the application can be viewed

The applicant must provide a website where the public can view the application. You can find the website address on the newspaper notice **and** on the site notice. The notices will provide information on how the public can make an observation to An Bord Pleanála about the application. The website must be kept live and available to the public for at least eight weeks after An Bord Pleanála's decision.

Hard copies at An Bord Pleanála's office and local planning authority's office

The applicant must give paper copies of the application to An Bord Pleanála and the local planning authority. The applications can be viewed at An Bord Pleanála's office and the local planning authority's office free of charge. You can also buy a copy of the application for a specified fee. The fee depends on the number and format of the pages in the application documents.

If an Environmental Impact Assessment Report (EIAR) is submitted with the application, you can view and buy a copy of it at An Bord Pleanála's office and the local planning authority's offices.

Can I see or get copies of the pre-application consultation file?

Yes. However, before we can make the case file available to the public, two steps need to happen:

1. The pre-application consultations have finished with the Board issuing an Opinion.
2. The applicant has made a valid application to An Bord Pleanála.

When these steps are taken, you can view these decided case files by using our public access service. You can find details on our website. The case file will contain the records of any meetings between An Bord Pleanála and the prospective applicant held during the pre-application consultation process.

Can I see or get copies of the scoping case file?

Yes. However, before we can make these documents available to the public, two steps need to happen:

1. The scoping case has finished with the Board issuing an Opinion.
2. The applicant has made a valid application to An Bord Pleanála.

When these steps are taken, you can view these decided case files by using our public access service. You can find details on our website. The case file will contain the records of any meetings between An Bord Pleanála and the prospective applicant held during the pre-application consultation process.

How long do I have to make an observation?

How long do I have to make an observation to the Board?

If you want to make an observation, you must do this within **five** weeks of the date An Bord Pleanála receives the application. The law does not allow us to accept a late observation for any reason. You can find details for current applications, including the dates they were **lodged** with us, on our website at www.pleanala.ie

How much does an observation cost?

How much does an observation cost?

If you are a prescribed body, there is no fee.

Making an observation

What do I need to do to make a valid observation?

You should carefully prepare your grounds of observation (reasons and arguments) and any documents you wish to include. When you have made your observation, you **cannot** make any further observations unless we specifically ask you for them.

Please note that An Bord Pleanála **cannot** consider non-planning issues.

To make a valid observation, you must:

✓	put your observation in writing (either typed or handwritten).
✓	clearly state your own name and postal address . If a planning agent is acting for you in this observation, the agent must clearly write their own name and postal address as well as your name and postal address.
✓	give us enough details to allow us to easily identify the application you wish to make an observation on. Examples of the details we accept are: <ul style="list-style-type: none">• the name and location of the proposed development in the application (for example: Town Square Project, Main Street, Ballytown, Co. Ballytown), or• the An Bord Pleanála case reference number for the application. The case reference number is the middle six-digit number (for example: 300000).
✓	give us: <ul style="list-style-type: none">• your planning grounds of observation (reasons and arguments), and• any items you wish to support your grounds of observation.
✓	make your observation on time and within the five-week time period beginning on the date An Bord Pleanála receives the application.

You can use the observation form to help you make the observation, or you can also just write to us. A checklist is available on our website to help you make a valid observation.

Oral hearings

Can I request an oral hearing?

Yes. You can request an oral hearing. The Board will generally only hold an oral hearing to help it understand a particularly complex case **or** if it involves significant national or local issues. The Board has the power to hold an oral hearing with or without a request for one. In SHD applications, oral hearings will only be held in very rare cases.

How do I ask for an oral hearing?

To ask for an oral hearing you need to make an oral hearing request. To make a request you **must**:

- tick the box that says “Yes, I want to request an oral hearing” on the Observation Form, **or**
- write in your observation that you want to ask for an oral hearing, **or**
- write to us and ask for one.

Please note, if you request an oral hearing, you will have to **pay a non-refundable fee** of €50. Further information on how to make this request is available by contacting us.

Sending us the observation by email

Sending an observation only

Prescribed bodies can send an observation by email to

strategichousing@pleanala.ie

Sending an observation together with an oral hearing request

If a prescribed body wishes to make an oral hearing request with their observation, it must send its observation and oral hearing request by post or deliver by hand. This is to allow the prescribed body to pay the required fee of €50 for an oral hearing request.

Sending us the observation by post or delivering in person

Where do I send or deliver my observation?

You can:

- post it to:

Strategic Housing Unit, An Bord Pleanála,
64 Marlborough Street, Dublin 1, D01 V902,



or

- deliver it in person to a member of An Bord Pleanála staff at our office in Marlborough Street (address above) during office hours – Monday to Friday from 9.15am to 5.30pm. Please note that the security staff in our office cannot accept observations.



or

- put it into the letterbox at our office outside office hours.



We are closed on weekends, public holidays and other publicised days such as Christmas Day and Good Friday.

Can I get a receipt if I deliver my observation in person?

Yes. If you deliver your observation in person to our office, you can ask for a **receipt** which says that we have received your observation. When your observation is handed to a member of An Bord Pleanála staff, we cannot return it nor can we make a photocopy of your documents with our date stamp. A receipt does not mean that your observation is valid. We will write to you separately to tell you if your observation is valid or invalid.

After you make your observation

Have I made a valid or invalid observation?

After we receive your observation, we will check that it meets the statutory requirements to be a valid observation. If your observation does not meet these requirements, it is invalid. Next, we will send you a letter to tell you that we have:

- received your observation, and
- found your observation to be valid **or** invalid.

What do I need to do next if my observation is valid?

If your observation is valid, you do not need to do anything else at this point. During the application process, if we write to you, please follow the instructions or advice in the letter. If you need help following the instructions or advice, you can contact us. Please quote the **case reference number** on the letter, so we can identify your case.

What happens if my observation is invalid?

If your observation is invalid, we will return all your documents to you as soon as we can. We will refund your fee by cheque to the postal address you have given us. You can re-submit the observation only if you can fully meet all the statutory requirements. For example, if you want to make your observation again, you will need to make sure that this is within the five-week period to make an observation. We cannot accept late observations for any reason.

Why is my observation invalid?

The observation is invalid as it does not fully meet all the statutory requirements as described in this guide. For example, it will be invalid if it is received outside of the five-week time period allowed to make an observation.

What does An Bord Pleanála do next?

An inspector will consider your observation and all documents on the application case file. They will visit the site of the proposed development to gather more information and take photographs for their report. The inspector may wish to see the site from your property. If this is the case, we may contact you to make arrangements for the site visit.

After the site visit, the inspector prepares a report and recommendation for the Board. The Board will then make a decision based on all the documents on the case.

What is the time limit for deciding applications?

The Board has a statutory objective to try to decide cases **within 16 weeks**. This period will not be extended unless an oral hearing is held.

When the Board makes a decision, we will send you a letter and a copy of the Board Order to let you know the decision. More information about the Board's decision is available on our website.

Can I withdraw my observation?

Yes, you can withdraw your observation any time before a decision is made. You **must** write to us and state that you wish to withdraw your observation. We cannot refund your fee.

Will the Board still consider my observation if the applicant has withdrawn their application?

No. If the applicant withdraws their application, there are no longer any observations to consider.

Can the Board dismiss an observation?

Yes. The Board can dismiss an observation where it is satisfied that the observation is:

- **vexatious**: intended only to annoy or disturb,
- **frivolous**: lacking in seriousness,
- **without substance or foundation**,
- **made just to delay** the development,
- **made to secure the payment** of money, gifts and considerations by anybody, or
- **made by a person who cannot be identified** (in the Board's opinion).

Where can I find out more information on the Strategic Housing Development process?

You can find further information in our Section 4 Applications to An Bord Pleanála: Guidance for the Public guide and other information on our website www.pleanala.ie

Frequently asked questions

Can I make an anonymous observation?

No. You must provide your name and full address when making your observation.

Can I get proof that I made an observation?

If you visit our office to deliver your observation in person, we can give you a receipt that we have received it. This receipt does not confirm that your observation is valid. We do not provide a photocopy of your observation documents with our date stamp on them.

Can you accept a late observation?

No. The law does not allow us to accept a late observation for any reason.

Why is the observation invalid even though I posted it on time?

Your observation is invalid as although you may have posted it on time, we did not receive it within the required time period of five weeks from the date An Bord Pleanála receives the application.

What happens if my observation is invalid?

If your observation is invalid, we will return your documents and fee.

An Bord Pleanála has returned my invalid observation. Can I re-submit the observation?

Yes, but only if you can fully meet all the requirements as described in this document, then you may make your observation again.

Can I send additional information after I have made my observation?

No. You cannot give us additional information after you have made your observation.

Can I be sued for what I write in my observation?

Yes, you could be sued. To avoid this, you should refer only to relevant planning issues. Defamation is when a person communicates false statements about another person that injure that person's reputation. Our notice on defamation explains more at www.pleanala.ie

Legislation

The laws and regulations referred to in this document are:

- Planning and Development (Housing) and Residential Tenancies Act 2016,
- Planning and Developments Act 2000, as amended,
- Planning and Development (Strategic Housing Development) Regulations 2017, as amended.

Contact us

If you want a copy of this document in a different format or if you need more information, please contact An Bord Pleanála.

Email us at:	strategichousing@pleanala.ie
Visit our website at:	www.pleanala.ie
Write to us at: Visit our offices at:	Strategic Housing Unit An Bord Pleanála 64 Marlborough Street Dublin 1 D01 V902
Telephone us on:	(01) 858 8100 or LoCall: 1890 275 175
Send us a fax on:	(01) 872 2684

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