

ballymore.

Ms Oonagh Buckley
Interim Chairperson
An Bord Pleanála
64 Marlborough St
Dublin 1



2nd June 2023

Dear Ms Buckley,

Re: SHD application 314686/22

I write in connection with a Strategic Housing Development (SHD) application for 586 residential units lodged with An Bord Pleanála on 26th September 2022 (An Bord Pleanála Ref No. 314686/22), known as the Coastal Quarter www.coastalquartershd2.com in Bray.

The application was made in the name of Shankill Property Investments Ltd which is a company wholly owned by the Ballymore Group. This application straddles the boundary between Dun Laoghaire Rathdown County Council and Wicklow County Council, with 274 no units proposed within the Dun Laoghaire Rathdown administrative area and 312 no units in the Wicklow County Council administrative area.

Requirement to determine SHD applications within 16 weeks

Under the Residential Tenancies Act 2016, the Board is obliged to determine SHD applications within 16 weeks of the date of lodgement. S9(9)(a) of the Act states that;

'The Board shall make its decision under this section on an application under Section 4 – (a) where no oral hearing is held, within 16 weeks beginning on the day the planning application was lodged with the Board'.

We calculate that a decision was due on the above application on 24th January 2023 and is now overdue.

S9(13)(a) of the Act states;

'Where the Board has failed to make a decision under this section in relation to an application within the period specified in Section (9)(a) or (10) as appropriate and becomes aware whether through notification by the applicant or otherwise that it has failed, the Board shall proceed to make the application notwithstanding that the period has expired.'

Accordingly, I hereby notify you under S9(13)(a) of the Residential Tenancies Act 2016 that the Board has failed to determine SHD Application Ref No. 314686 within the statutory sixteen week period.

At your appearance at the Joint Committee on Housing, Local Government and Heritage (JCHLGC) in February 2023 you referenced the judgement issued by Justice Holland in the *Crofton Buildings Management CLG & Anor v. An Bord Pleanála* judicial review as a complicating factor for determining SHD planning applications where a new Development Plan came into effect after an application was submitted.

We do not believe that this difficulty arises as the subject application was deliberately held back until both the new Dun Laoghaire Rathdown and Wicklow Development Plans were adopted, and is consistent with both new plans.

We took the decision to lodge an SHD rather than an LRD in January of 2022 based on extensive planning and legal advice. This decision was made mainly because the subject site straddled two administrative boundaries, with approximately 50% of the development in each jurisdiction. Our planning consultants advised that one of the unique advantages of the SHD process was that a single application could be lodged and adjudicated on by a single planning authority. It seemed to us that this was the most straightforward and transparent way to proceed. It minimised the risk of inconsistencies between different planning decisions made by two different planning authorities on what was essentially a single, coherent development scheme. A single application was also easier for other state agencies such as Irish Water, and third parties, to consider and comment on and was more consistent with the spirit of the Environmental Impact Assessment process.

We were also conscious that, at the time the decision was made to proceed with the SHD application in January 2022, the LRD process itself was a very new and untested process. It seemed to us at the time that the SHD process was a tried and tested process widely understood by all parties. The application was made in good faith and is legally valid.

In preparing the planning application, our design team were acutely aware of the 'moving target' the draft Development Plans being prepared by Dun Laoghaire Rathdown and Wicklow County Councils represented. The lodgement of the application was timed precisely to avoid the risk of the application being prepared under one generation of development plans but determined under the next generation of plans. The application was made on the 26th September 2022. The Dun Laoghaire Rathdown Development Plan 2022-2028 came into effect on 21st April 2022. The Wicklow Development Plan 2022-2022 was adopted on the 12th September 2022 and came into effect on 23rd October.

Both of the Chief Executives' Planning Reports on the application submitted to the Board were written in the context of their new Development Plans. Both reports concluded that the application was consistent with the new plans, and both recommended a grant of permission. Thus, we believe that the difficulties that may arise due to the *Crofton Buildings Management* Case do not arise with the subject application.

Conclusion

For all the difficulties that have arisen with the SHD process, it must not be forgotten that it has also led to some very successful outcomes. Ballymore itself is currently in the course of building out two permissions granted under the SHD process; one consists of 142 housing units in Seamount, Malahide, Co Dublin and one is for 435 units in Pelletstown, Dublin11.

The Pelletstown project was applied for on the 16th December 2019 following the acquisition of the site by Ballymore in January 2019. Permission was granted on the 12th May 2020 and the scheme is now nearing completion, with the first occupants due to move in in July of this year. This is a remarkably fast turnaround for such a large scheme and is in large part attributable to the speed and efficiency of the SHD process.

I am especially proud of the speed with which the scheme was built out during the difficult COVID period. This is a tribute to the team we have assembled in Ballymore which is capable of delivering large and complex housing projects at speed and on budget. As the Pelletstown scheme draws to completion it was my intention to transfer this team to the subject planning application. The purchaser of the Pelletstown scheme, a German pension fund, has expressed their willingness to partner again with us on the Bray scheme. We are ready and able to commence construction immediately upon receipt of a planning permission.

It is thus especially frustrating and disappointing to be faced with the possibility of having to lay off this highly experienced, skilled and motivated team due to a delay in this application. I appreciate that there are many competing applications vying for your attention, however it is clear to me that the subject application can make a substantial impact on the housing needs of the people of Dun Laoghaire Rathdown and North Wicklow.

In any case, I would greatly appreciate if you could revert with a timeframe for the determination of the application so that we can plan our next steps accordingly.

I trust that this is in order,

Yours sincerely,



Patrick Phelan

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Managing Director, Ballymore Ireland

Cc: Mr Chris McGarry, deputy chairperson, An Bord Pleanála