



## Large Scale Residential Developments (LRD)

The Programme for Government – Our Shared Future committed to not further extending the Strategic Housing Development (SHD) arrangements beyond their expiry date of 25 February 2022. Action 12.3 of Housing for All also commits to the introduction of a new planning process for Large-scale Residential Developments to replace the SHD process. The main purpose of the Planning and Development (Amendment) (Large-scale Residential Development) Act 2021 is to restore the two-stage planning process, with decision making for Large-scale Residential Development (LRD) type applications returning to the local planning authority in the first instance, with the subsequent right of appeal to An Bord Pleanála (the Board), thereby delivering on the above commitments in the Programme for Government and in Housing for All.

### Legislation (effective date 17<sup>th</sup> December 2021):

- PLANNING AND DEVELOPMENT (AMENDMENT) (LARGE -SCALE RESIDENTIAL DEVELOPMENT) ACT 2021.
- PLANNING AND DEVELOPMENT (LARGE-SCALE RESIDENTIAL DEVELOPMENT) REGULATIONS 2021 S.I. 716 of 2021
- PLANNING AND DEVELOPMENT (LARGE-SCALE RESIDENTIAL DEVELOPMENT FEES) REGULATIONS 2021 S.I. 720 of 2021

### Definition:

The definition of Large-scale Residential Development (LRD) is largely similar to Strategic Housing Development (SHD), i.e.

‘large-scale residential development’, which is defined to mean a development that includes—

- (a) the development of 100 or more houses,
- (b) the development of student accommodation that includes 200 or more bed spaces,
- (c) both the development of 100 or more houses and of student accommodation, or
- (d) both the development of student accommodation that includes 200 or more bed spaces and of houses, where the LRD floor space of—

- (i) in the case of paragraph (a), the buildings comprising the houses,
- (ii) in the case of paragraph (b), the student accommodation,
- (iii) in the case of paragraphs (c) and (d) the buildings comprising the houses and the student accommodation,
- (iv)

is not less than 70 per cent, or such other percentage as may be prescribed, of the LRD floor space of the buildings comprising the development, and

‘LRD floor space’, which is defined to mean, in relation to a building or part of a building, the area ascertained by the internal measurement of the floor space on each floor of a building or part of a building (including internal walls and partitions), disregarding any floor space provided for—

- (a) the parking of vehicles by persons—
    - (i) occupying or using the building or the part of the building,
    - (ii) for a purpose incidental to the primary purpose of the building or part of the building,
- and

(b) ancillary residential services, including gyms and child-care facilities.

The Department of Housing, Local Government and Heritage has summarised the LRD arrangements as follows:

- The definition of Large-scale Residential Development (LRD) is largely similar to Strategic Housing Development (SHD), i.e. developments of 100 housing units or more, or student accommodation developments comprising 200 bed spaces or more, or a combination of same. The two main changes under the new LRD arrangements will allow for:
  - o Up to 30% of the gross floor space of the proposed development to be for other uses, instead of the 15% cap under the SHD arrangements.
  - o Mixed developments combining housing and student accommodation to be classified as an LRD where the threshold is met for either element.
- The new LRD arrangements comprise three stages– pre-application consultation stage, planning application stage and appeal stage.
- In order to proceed to make an LRD planning application, an LRD opinion, issued within the last 6 months, is generally required further to the pre-application consultation stage.
- The pre-application consultation stage involves two steps in the majority of cases; firstly, the applicant will be required to seek standard pre-application consultation as currently mandated for developments of this scale under section 247 of the Planning Act.
- At that first stage of the process, the planning authority may, within 4 weeks of the receipt of the pre-application consultation request, either arrange the section 247 consultations or, for LRD proposals which propose to amend previously permitted LRDs or SHDs, the planning authority may make a determination under the new section 247(7) that, as the proposed development is substantially the same as the previously permitted development, further pre-application consultations are not required in respect of the development.
- In cases where the initial section 247 pre-application consultation meetings have been held, the second step in the pre-application consultation process involves an “LRD meeting” with the relevant planning authority for the purpose of receiving an “LRD opinion” as to whether the proposals constitute a reasonable basis for submitting an LRD planning application.
- Specified documentation is required to be submitted by the developer/ prospective applicant relating to the proposed development with their LRD meeting request, including a site location map, a draft layout of the proposed scheme, details of the proposed house types and design, the housing density, building heights, vehicular access, open space provision, integration with surrounding land uses etc.
- Streamlined timelines are provided as part of this new process with planning authorities required to complete the LRD meeting and LRD opinion process within 8 weeks of the request for such meeting from the developer i.e. 4 weeks to hold the LRD meeting with the developer followed by 4 weeks for the planning authority to issue an LRD opinion on whether the proposals constitute a reasonable basis for submitting a planning application on the LRD proposals.
- The LRD opinion, or determination under section 247(7), will be valid for 6 months and allows the developer to progress to application stage i.e. a planning application must be submitted within 6 months of receipt of the LRD opinion. Otherwise, the developer must re-commence the pre-application consultation process again.

- It is intended that the detailed LRD pre-application consultation arrangements will minimize the need for “further information” requests at the subsequent planning application stage.
- Once an LRD planning application is submitted to the planning authority, members of the public, prescribed bodies and elected local authority members will be able to make submissions on a proposed development to the planning authority in the same manner as currently applies in respect of standard section 34 planning applications submitted to the planning authority.
- The Regulations provide that the developer must make the application documentation available for public viewing on a dedicated website set up for this purpose, this for the purpose of enhancing transparency and public participation in the LRD process.
- Planning authorities will generally be required to determine LRD planning applications within 8 weeks of receipt, except where “further information” is required.
- Requests for further information by local authorities on LRD planning applications may only be sought once and only in relation to matters of technical or environmental detail, or both, that were unforeseen at the time of the LRD opinion and the time of lodging the LRD application, or new matters raised during the LRD planning application public participation process.
- If an LRD decision is appealed to the Board, the Board will be required to determine the appeal within 16 weeks of receipt, again with similar limited scope for “further information” requests.
- A penalty, payable to the developer, will apply to both the planning authority (3.5 times the application fee paid or €10,000, whichever is the lesser) and the Board (€10,000) for late decisions on LRD planning applications or LRD appeals.
- The Act also includes a number of transitional arrangements in relation to the expiry of the SHD arrangements and their replacement by the new LRD arrangements. Under the Act:
  - o SHD prospective applicants/ developers already in receipt of an SHD opinion under the SHD arrangements on the commencement of the Act (17 December 2021) will have 16 weeks to submit an SHD application to the Board from the 17 December 2021.
  - o SHD prospective applicants/ developers who have formally commenced consultations with the Board and are awaiting an SHD opinion on the commencement of the Act (17 December 2021) will have 16 weeks to submit an SHD application to the Board from the date of receipt of the SHD opinion.

## **Stage 1 Pre-Planning. There are 2 elements to the Pre-planning process**

### **(i) Section 247 meeting**

An application must be made to the Council for a Section 247 meeting.

### **(ii) LRD meeting (Section 32B)**

- Application under Section 32. (Specified information to be submitted with request).
- Fee to accompany request.
- Prior to meeting Council may consult with any person who may, in the opinion of the planning authority, have information that is relevant for the purposes of the LRD meeting in relation to a proposed development.
- Where the meeting does not take place within the specified period the Council shall proceed to convene the LRD meeting as soon as is practicable and issue written explanation as to why meeting did not take place.
- Council issues 'LRD Opinion' within the period of 4 weeks, beginning on the date on which the LRD meeting takes place. Opinion to advise: "...as to whether or not the documents submitted for the purposes of the meeting constitute a reasonable basis on which to make an application for permission for the proposed LRD."
- Where Council opinion is there is not a reasonable basis the opinion is to include:
  - (a) the areas, or the issues, in respect of which the documents submitted do not constitute a reasonable basis on which to make the application, and
  - (b) any issues that, if addressed by the relevant documents, could result in the documents constituting a reasonable basis on which to make the application.
- Opinion valid for period of 6 months. An applicant '...shall not make the application unless at that time he or she holds an LRD opinion, or written confirmation referred to in section 247(7), in relation to the proposed LRD provided not more than 6 months before the date of the application.'

## **Stage 2 Application**

- Application to be accompanied by relevant Form 19.
- Elected Members to be notified of the making of the application.
- Either LRD Opinion or Determination under S247 (7) that no consultation required must be accompany application.
- Application must be submitted within 6 months of receipt of Opinion.
- Opinion forms part of the planning file.
- The developer must make the application documentation available for public viewing on a dedicated website set up for this purpose, this for the purpose of enhancing transparency and public participation in the LRD process.

## **Stage 3 Appeal to an Bord Pleanála.**

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**Note:**

Neither the taking place of an LRD meeting nor the provision of an LRD opinion shall prejudice the performance by the planning authority of its functions under this Act or any regulations under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.