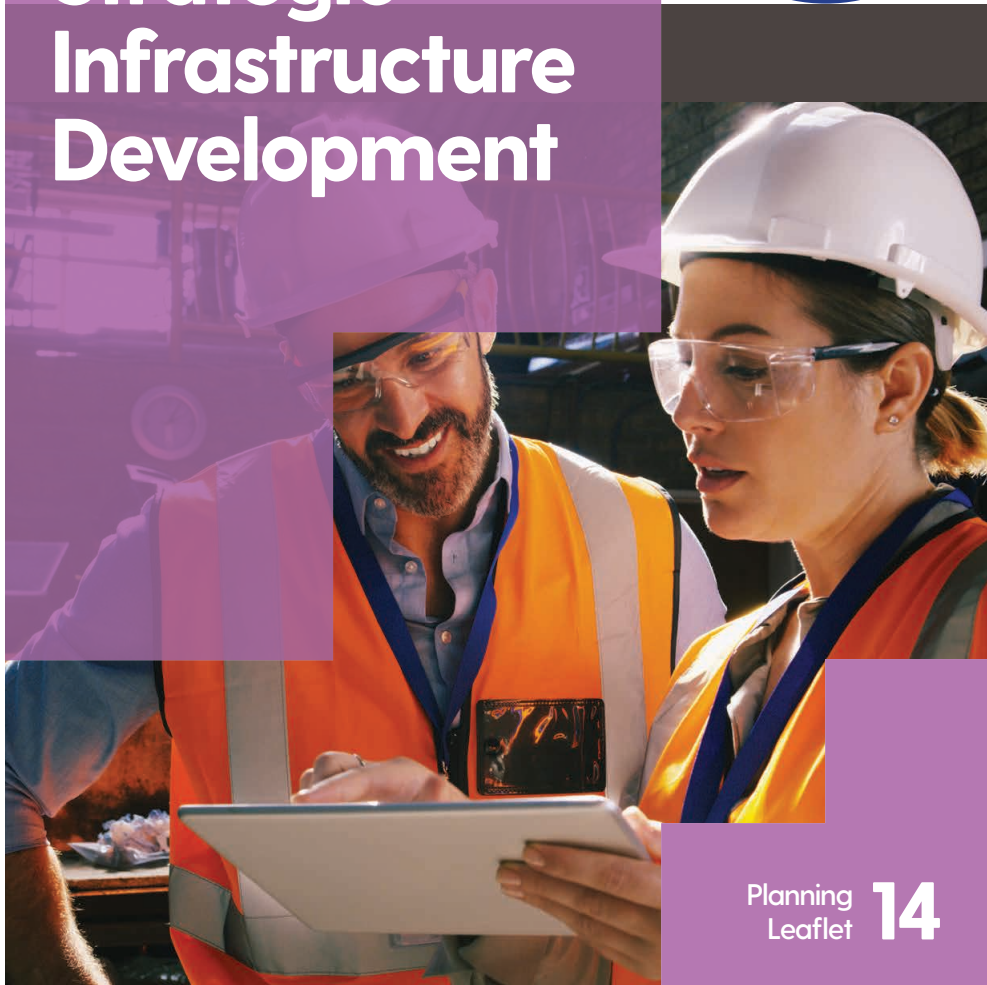
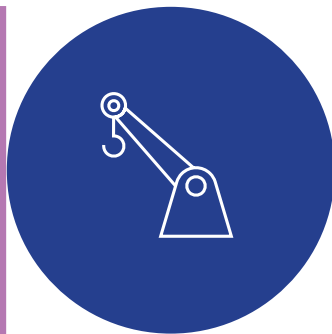


Strategic Infrastructure Development



Planning
Leaflet **14**



Óifig an
Rialaitheora Pleanála
Office of the
Planning Regulator



An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreacht
Department of Housing,
Local Government and Heritage



Strategic Infrastructure Development

This leaflet explains Strategic Infrastructure Development (SID) by private sector developers, and the procedures involved in applying for planning permission for this type of development. Other types of SID, such as gas and electricity infrastructure or roads projects, have different processes. This leaflet is intended as a practical guide. It is not a definitive legal interpretation of planning law. For further information, you should consult An Bord Pleanála (the Board).

1. What is Strategic Infrastructure Development?

The Planning and Development Act 2000, as amended, provides for a special planning application process for Strategic Infrastructure Development (SID). This procedure allows for an application to be made directly to the Board rather than to the local authority.

The types and sizes of development that fall under SID are set out in the Seventh Schedule of the Planning and Development Act 2000, as amended. They include large projects in the energy, transport, environmental and health infrastructure sectors.

To qualify as a SID, a proposed development must be one of the specific classes prescribed in the Seventh Schedule and must exceed the defined development thresholds for that class. For example, a healthcare facility with over 100 beds, or a wind farm with more than 25 turbines or a total output of more than 50 megawatts.

The Board then decides (following formal consultation) whether the proposed development:

- would be strategically, economically or socially important to the State or the region in which it would be situated; *and/or*

- would contribute substantially to fulfilling any of the objectives of the National Planning Framework or the Regional Spatial and Economic Strategy for the location(s) of the development; *and/or*
- would have a significant effect on the area of more than one planning authority.

If the proposed development, (for example a 100-bed hospital) meets any one of these criteria, then it can be considered as a SID, and an application for planning permission can be made directly to the Board. If not, then the application is made to the local planning authority.

A SID application must be accompanied by an Environmental Impact Assessment Report (EIAR). A Natura Impact Statement (NIS) may also be required, depending on the circumstances of the case.

2. What is the procedure followed for Strategic Infrastructure Development?

Step 1: Pre-application consultation

Pre-application consultations are required for all potential SID cases. The consultation process allows the Board to determine if the proposed development constitutes a SID.

Consultation must be requested (in writing) before an application is made. The process consists of written information and meetings between staff of the Board and the prospective applicant. A record is kept of

these meetings. This record is available for public inspection once the process has been formally concluded.

During the pre-application consultation, the Board may also consult with anyone it considers to have relevant information, including the local authority where the proposed development is intended to be located. To keep the public informed, the Board is required to:

- publish a weekly list of ‘cases received’ including requests for consultations; *and*
- publish a weekly list of ‘cases determined’ including consultations concluded.

The Board’s records of the pre-application consultation are available to inspect and purchase once consultations are finished. However, consultations for complex projects can extend over lengthy periods. The Board can only finish the pre-application consultation process and make a determination when the prospective applicant requests it. Following the pre-application consultation, the Board determines whether a proposed development is a SID and issues either of the following formal notices:

A: CLASSIFIED AS A SID - PROCEED TO SID APPLICATION: The application is made to the Board and must include the Board’s certificate confirming it is a SID; *or*

B: NOT CLASSIFIED AS A SID – PROCEED WITH APPLICATION THROUGH PLANNING AUTHORITY: The application is made to the local planning authority in the normal way under Section 34 of the Planning and Development Act 2000, as amended, but may be the subject of an appeal to the Board.

Step 2: Scoping

Where the Board has issued a notice to a prospective applicant, informing the applicant that it considers a proposal to be a SID, the prospective applicant may ask the Board to give a written opinion regarding the information which should be contained in an Environmental Impact Assessment Report (EIAR), concerning the proposed development. This is referred to as ‘scoping’.

This request must be in writing, and must include sufficient information about the proposed development to enable prescribed bodies to make informed submissions and for the Board to give an opinion regarding the request.

Before providing a scoping opinion, the Board must consult with bodies specified by the Minister, including the relevant planning authority. It may also invite submissions or observations from other prescribed bodies regarding the information to be contained in the EIAR.

This is an optional process that must be initiated by the prospective applicant and in practice, is seldom used.

Step 3: Preparing and submitting a planning application

Prior to making an application to the Board the applicant must publish notice of the proposed application in a newspaper circulating in the locality, which must state:

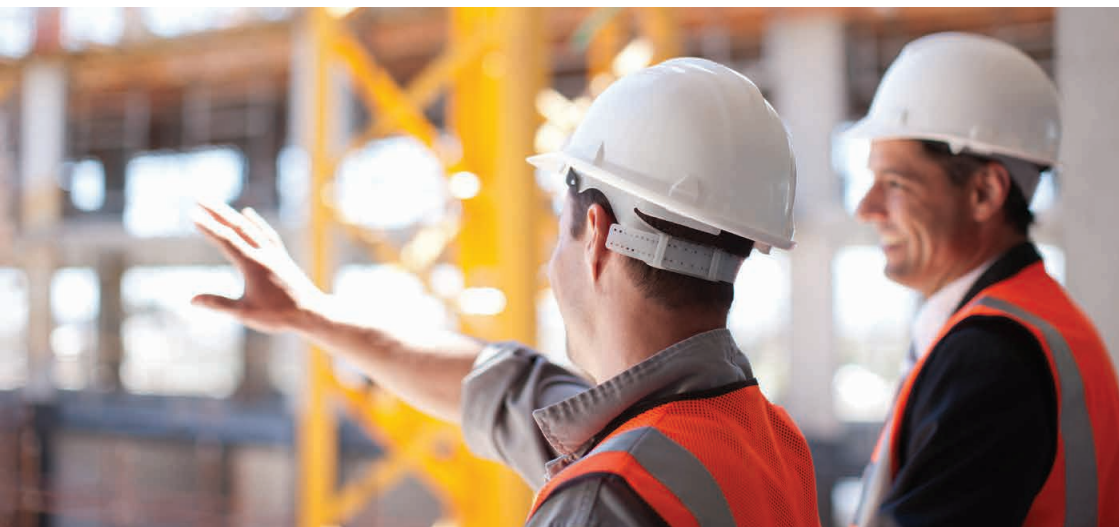
- that an application is to be made to the Board for permission/approval within a specified timescale (at least six weeks);
- the nature and location of the proposed development;
- that an EIAR and NIS have been prepared (where required);
- the times and places where the application (and EIAR/NIS) can be inspected and purchased;
- that submissions and observations can be made to the Board within a period specified in the notice (which must be at least six weeks); *and*

- the types of decision which the Board may make and that the public and others, e.g. prescribed bodies may make a submission to the Board, and that the Board must include notice of receipt of the application in its weekly list of new cases.

3. What documents need to be submitted with a SID application?

In making an application for planning permission, the applicant must submit the following in writing to the Board:

- a completed application form;
- copies of plans and particulars of the proposed development, including the EIAR, and any plans, particulars or other information required by the Board (the number of copies and their format will be clarified during the pre-application consultation stage);
- a copy of the published notice(s) including any site notice (if required);



- a list of the bodies notified of the application and an indication of the date they were notified;
- a list of any other public notices or other public consultations, and an indication of the date or dates of such notice(s) or consultations (including any notice or consultation required by the Board and indicated to the prospective applicant in pre-application discussions); *and*
- the application fee, which is payable when the application is being lodged.

The applicant must also send a prescribed number of copies of the application and EIAR/NIS to:

- the relevant planning authority/planning authorities; *and*
- any prescribed authorities.

4. Are planning authorities involved in the process?

The planning authority has ten weeks to prepare a report for the Board (or longer if the Board specifies). The report should include the views of the planning authority on the effects of the proposed development on the environment, the likely effects on any European site, where relevant, and the proper planning and sustainable development of the area of the planning authority having regard, in particular, to matters under Section 34(2) of the Planning and Development Act 2000, as amended. The planning authority can also submit a list of recommended conditions to be attached in the event of the Board granting planning permission.

The Chief Executive of the local authority must submit this report to the elected members of the local authority and seek their views on the proposed development. The elected members may decide to attach recommendations, which must be included in the report to the Board.

5. Will there be an oral hearing for a SID application?

The Board will often decide to hold an oral hearing on SID applications because of the complexities of the issues involved. While the SID applicant, prescribed bodies, and members of the public can request an oral hearing, the Board has absolute discretion to decide whether or not to hold a hearing. The Board may also decide to hold a 'limited agenda' oral hearing to deal with specific issues, in which case, additional matters cannot be raised.

The oral hearing is conducted by an Inspector appointed by the Board. The Inspector will determine how the oral hearing is conducted.

Members of the public and prescribed bodies can make a submission to the oral hearing. If a member of the public did not make a submission during the prescribed period, they may be permitted to make a contribution to the oral hearing, but only where it is considered appropriate in the interest of justice and subject to payment of any required observer fee.

6. How is the application assessed?

A report on the planning application will be prepared by the Board's Inspector. This report will deal with submissions, including the oral hearing. The report will also include an assessment of the planning and environmental issues relevant to the proposed development.

The Inspector will recommend to the Board whether planning permission should be granted or refused. The Inspector will include the reasons and considerations on which that recommendation is based. If their recommendation is to grant planning permission, conditions will also be recommended in all but exceptional cases. The Inspector may also recommend that part of the proposed development be permitted, and part refused (a 'split decision').

This report, together with all of the information submitted, is then sent to the Board, for its consideration and decision.

When making its decision, the Board must consider:

- the EIAR and any other relevant information relating to the likely consequences of the development for proper planning and sustainable development in the area the proposed development is intended to be situated and the likely effects on the environment;
- any submissions/observations made by the public/observers to the application;

- the report of the Inspector appointed by the Board to examine the case including the report of any oral hearing held into the application;
- the report of the planning authority, any recommendations made by resolution by the elected members and the administrator's record of the meeting which were appended;
- any additional information submitted in response to a request from the Board ;
- the provisions of the development plan or plans for the area and any special amenity area order;
- if the area or part of the area is a European site and if the proposed development would have an effect on a European site;
- the policies and objectives of the Government, a State authority, the Minister, planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns or other areas;
- the national interest and issues of strategic economic or social importance to the State;
- the National Planning Framework and any Regional Spatial and Economic Strategy in force; *and*
- any relevant provisions of the Planning and Development Act 2000, as amended.

While the Board will have regard to the policies and objectives of the local development plan or, where the development has an impact on more than one local authority, all relevant

local development plans, the Board may decide to grant a permission for the proposed development, even if it materially contravenes the development plan.

When assessing the planning application, the Board can make additional requests including:

- I. requiring the applicant to submit further information, including a revised EIAR (and where significant, advertise this fact and invite submissions);
- II. indicating that it is considering granting permission, subject to the applicant submitting revised particulars, plans or drawings in relation to the development;
or

- III. requesting further submissions/ observations from the applicant, or anyone who made submissions or observations, or any other person that the Board may feel has relevant information.

7. What types of decision can the Board make in respect of a SID application?

In deciding on a SID application, the Board may:

- grant permission;
- make modifications to the proposed development as it specifies in its decision and grant permission in respect of the ‘modified’ development;
- grant permission in respect of part of the proposed development (with or without specified modifications of it of the foregoing kind); *or*
- refuse permission.



In granting permission, the Board may attach:

- a condition with regard to the proposed development;
- a condition requiring payment of a development contribution or contributions;
- a condition requiring further information to be submitted before commencing development; *and*
- a condition requiring, in whole or in part, (i) the construction or the financing of a facility, or (ii) the provision or the financing of the provision of a service, in the area in which the proposed development would be situated, being a facility or service that, in the opinion of the Board would constitute a substantial gain to the community.

However, if the Board approves a SID which requires an Industrial Emissions (IED) licence, Integrated Pollution Control (IPC) licence or a Waste Licence from the Environmental Protection Agency (EPA), the Board may not attach conditions relating to emissions controls relating to the activity to be licenced, as these are dealt with by the EPA e.g. air quality emission limit values from a licensable factory or waste to energy plant.

The Board can, however, refuse permission where, notwithstanding the licencing process of the EPA, the Board considers that the proposed development is unacceptable on environmental grounds, having regard to the proper planning and sustainable

development of the area in which the proposed development would be situated.

8. How will I be notified of a decision?

All involved in the application (including those who made submissions and spoke at an oral hearing) are notified of the decision by post. The decision is also published on the Board's website.

9. What is the time limit for deciding a SID proposal?

The Board is subject to a statutory objective to seek to determine SID cases within 18 weeks commencing on the last day for receiving submissions from the public.

Proposed SID projects can be large and complex and necessitate extensive consideration of all the relevant issues. It can also be time consuming to obtain all the relevant information. Therefore, it may not be possible or appropriate to determine the case within the 18-week time frame, particularly where an oral hearing is held. In such cases, the Board must notify all concerned and give a revised date by which it intends to determine the matter.

10. How can I participate in the SID process?

Public participation in the planning process is essential to ensure transparent and robust decision-making. The planning legislation for SID gives defined time periods when the public and interested

organisations are invited to give their views. Before the application is made to the Board, notices must be published in one or more newspapers circulating in the area, specifying the times and places where the application can be viewed, free of charge, for a period of at least six weeks.

You can purchase copies of the application for a cost not more than the reasonable cost of making a copy. Details and particulars will also be available for download free of charge.

Given the scale and complexity of some SID cases, it may be beneficial for communities to co-ordinate the gathering of information and preparation of their submissions. It may also be helpful to obtain input from a suitably qualified professional. Where you have made a submission and an oral hearing is called, you will be notified of the arrangements and will have the opportunity to make a further submission orally at the hearing.

11. Can I appeal the decision made by the Board?

No. There is no appeal against the Board's decision on a SID application.

The validity of any Board decision in a SID case may only be challenged by way of judicial review in the High Court within eight weeks of the decision.

It is important to note that the court will not re-open the planning merits of the case and that the person seeking the judicial review must have a sufficient interest in the matter.

When issuing its decision, the Board provides information in relation to judicial review procedures.

Further information can be obtained from An Bord Pleanála, telephone (01) 8588100, www.pleanala.ie or from your local planning authority.

The law governing the planning system is set out in the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001, as amended. You can purchase these from the Government Publications Office by phoning the call centre on (046) 9423100 or at publications@opw.ie or download them for free from the Department of Housing, Local Government and Heritage's website www.gov.ie/housing. Legislation is also available to view and download from: www.irishstatutebook.ie.

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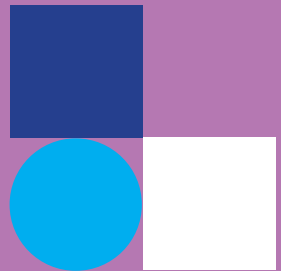
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