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Insights & lessons learned from the SHD process

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Insights & lessons learned from SHD

Background, origins & evolution – From SHD to LRD



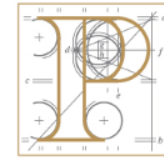
July 2016, Action Plan for Housing & Homelessness



- Certainty around **timelines** & a **fast track** process
 - Planning & Development (Housing) & Residential Tenancies Act, 2016 (adopted December 2016)
 - Planning & Development (Strategic Housing Development) Regulations, 2017 (commenced on 3rd July 2017)

Insights & lessons learned from SHD

Background, origins & evolution – From SHD to LRD



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- » Emphasis on ‘fast-tracking’ carried forward into LRD:
 - » Expanded & obligatory pre-app process: s.247 & new s.32B ‘LRD Meeting’
 - » ‘LRD meeting’ to be held within 4 weeks of request
 - » ‘LRD Opinion’ to issue within 4 weeks of LRD Meeting
 - » New limitations on PA FI requests - Article 33(1A) & (2A)
 - » Time limits for LRD appeals – s.126A



Insights & lessons learned from SHD

Role of An Bord Pleanála - LRD



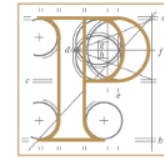
Direct application SHD – v – Planning Appeal LRD

- » In SHD application – ABP is the consent authority
- » In LRD appeal – ABP is an appellate body



Insights & lessons learned from SHD

Legal context



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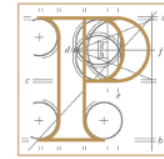
- » Significant increase in number of Judicial Reviews
- » Significant increase in number of decisions being quashed



78. There is a further problem with the existing approach which is that **the complexity of planning and environmental law has mushroomed since the hypothetical amateur reader was first postulated in the mid-1980s. Every aspect of planning applications is now saturated not only with complex domestic regulation and caselaw, but also European law, overlain by a tapestry of jurisprudence from Luxembourg. Every paragraph and maybe every line of a planning decision (let alone a development plan) now bristles with legal significance. The days when planning decisions were just matters of planning judgement, to be challenged only on an unreasonableness basis, are long over, and they aren't coming back. Even if the view that planning documents were policy matters that should be read from a non-legal perspective was understandable at one point in time, it isn't fit for purpose now. Maybe I'm wrong, but I'd be surprised if there were many significant planning documents (like development plans for example) that are not run past the in-house lawyers of whatever authority produces them.** But either way, even the non-legally qualified planning officials of councils are themselves deeply versed in the statutory context.

Insights & lessons learned from SHD

Insights & lessons learned: Pre application consultations



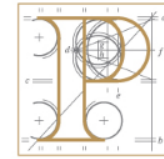
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- » 'Frontloading' of process
- » 'LRD meeting' – 21 items of information to be submitted
- » Importance & effectiveness of pre-app process
- » S.32C(3) – Who should attend LRD meeting
- » Internal technical reports – no surprises at application stage

The planning authority shall ensure that planning authority officials attending the LRD meeting on its behalf have a sufficient level of relevant knowledge and expertise in the matter concerned.

Insights & lessons learned from SHD

Insights & lessons learned: application stage



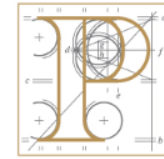
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- » Dedicated website
 - » Public participation/access to information
 - » Operational for prescribed period
 - » Contents consistent with hard copy
- » EIA & AA, public participation and the pre-app process
- » AA Stage I – V – Stage II NIS
- » Local ecology – V - AA
- » 'Other uses' was 15% max, now 30%



Insights & lessons learned from SHD

Insights & lessons learned: application stage



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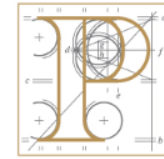
- » Validation – full compliance with Act & Regulations
- » No ‘decision’ made at pre-application stage – s.32E
- » Consistency & coordination across the various technical documentation
- » Value & effectiveness of multidisciplinary team



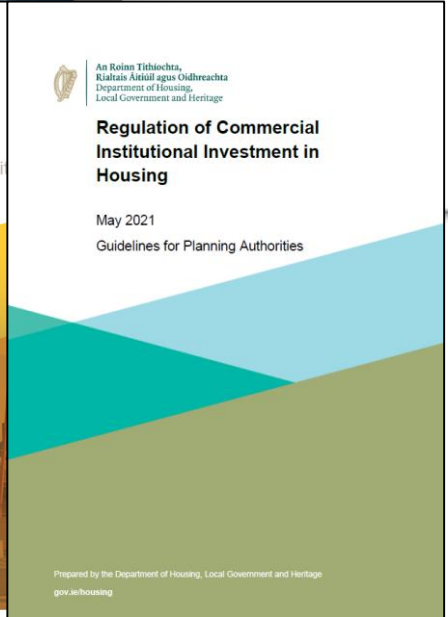
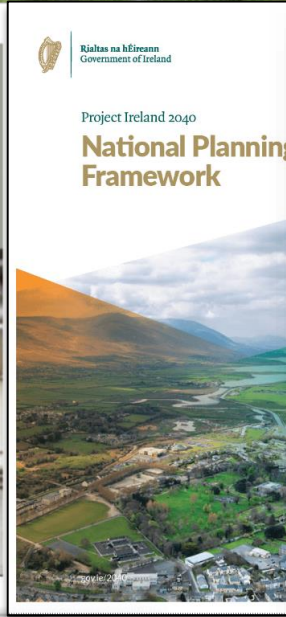
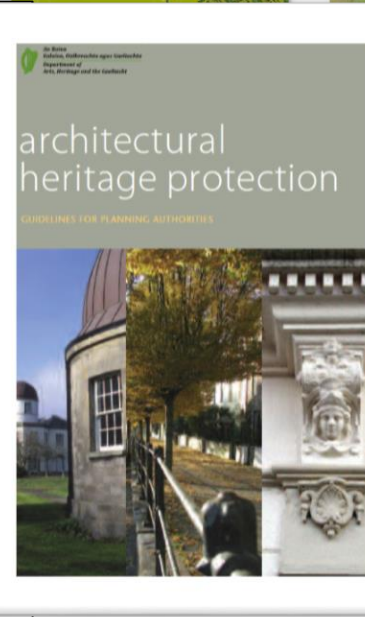
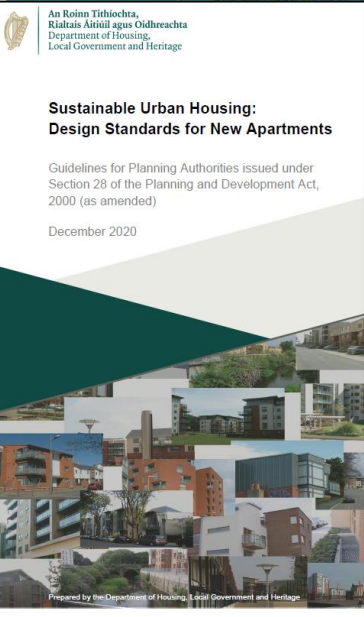
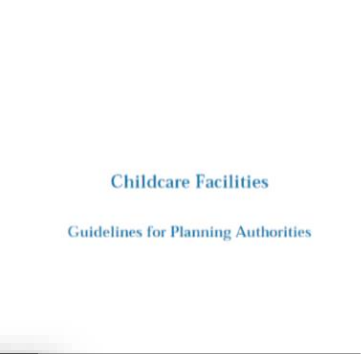
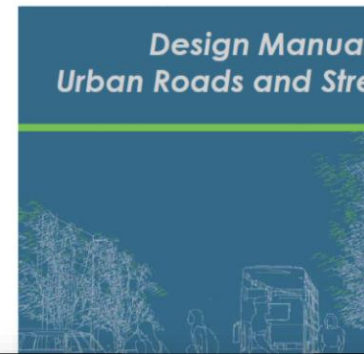
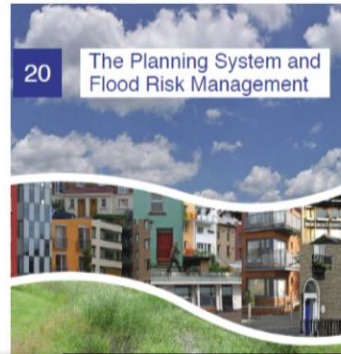
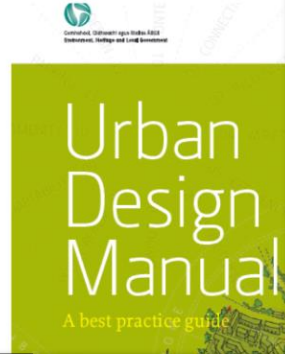
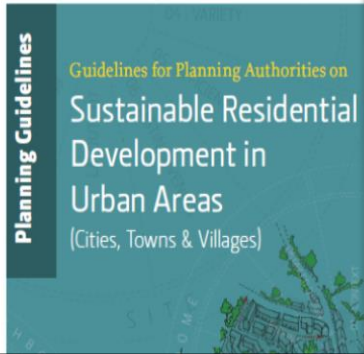
32E. Neither the taking place of an LRD meeting nor the provision of an LRD opinion shall prejudice the performance by the planning authority of its functions under this Act or any regulations under this Act or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

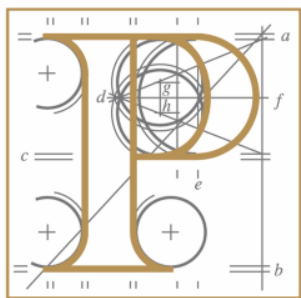
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Insights & lessons learned: National & Local policy context



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