



## **An Bord Pleanála – 2005 Annual Report**

### **LOCAL COMMUNITIES' PARTICIPATION IN STRATEGIC INFRASTRUCTURE PROJECTS ASSURED – AN BORD PLEANÁLA**

At the publication of Bord Pleanála's Annual Report, 2005, on 11<sup>th</sup> October 2006, the Chairperson of the Board, John O'Connor, said that the participation by local communities in the decision making process will be central to the discharge by the Board of its new functions under the Planning and Development (Strategic Infrastructure) Act 2006 which will be brought into force shortly. Although the limited number of infrastructure projects coming within the scope of the new procedures will be of national or regional significance, the Act explicitly provides for full participation by local people, the elected and executive branches of the local authorities affected, other statutory bodies and concerned non-governmental organisations. The Board intends, in its general approach and specific procedures, that such participation will be meaningful and that its assessment of projects will be independent, fair and fully transparent. While the wider national interest and policies at EU and national level must be taken into account, projects that the Board considers will seriously injure the local environment or that do not accord with proper planning and sustainable development will not be approved. The new legislation, for the first time, explicitly applies both of these criteria (effects on the environment and proper planning and sustainable development) to projects in the transportation and energy areas and perhaps the significance of this is not yet fully appreciated.

The Chairperson said a new Strategic Infrastructure Division will be set up within the Board to handle proposals from both public and private sectors relating to transportation, environmental and energy projects. The procedures to be put in place by the Board to give effect to the statutory provisions in the Act will have to ensure that the requirement to process applications efficiently and expeditiously is balanced by the need to facilitate meaningful participation by local communities and interested statutory and non-governmental organisations. Interested parties, from whatever angle they are coming, must be assured that their views are taken into account in the final decision. The Board is acutely aware of the importance of maintaining public confidence in the way it determines these strategic projects.

In order to assist project sponsors, interested parties and local authorities in the effective operation of the new legislation, the Board will publish guidance, including details of its procedures, before the new provisions come into effect. These guidelines will give particular emphasis to ensuring that the public are made fully aware of proposed projects and have access to full details of them so that they can participate in the process on a well informed basis. Mr. O'Connor said that he believes that sponsors of major infrastructure projects – whether public bodies or private companies – should at the earliest possible stage engage with local communities on a frank and open basis so that reaction is informed by the fullest possible information about the project and its impacts. The Board will be availing of the pre-application consultation phase provided for in the Act to persuade sponsors of the benefits of such an approach.

Additional staffing resources have been approved to deal with the Board's new functions under the Act. Consideration is being given to the adequacy of the authorised staffing resources to discharge its new responsibilities in the light of the nature and number of new cases likely to be submitted and the very high existing workload.

### **PLANNING APPEALS RUNNING AT RECORD LEVEL**

Mr O'Connor also said that the current strong level of construction activity looks set to continue judging by the level of planning activity and the scale of developments coming to the Board. The record intake of planning appeals in 2005 could well be surpassed in the current year and this is putting severe strain on the Board's resources. As a result, it is proving difficult to maintain the satisfactory performance in terms of the time taken to determine appeals.

- Up to the end of September 2006 the intake of appeals and infrastructure cases was running at the same level as last year's record intake. On present trends, the 2006 intake is set to exceed the 6,000 mark.
- It has not been possible to maintain the improved timeliness of decision making recorded in previous years. The percentage of cases being decided within the 18 week statutory time objective has fallen back from 78% in 2005 to 53% in 2006.
- Reflecting the high intake, the number of cases on hands at the end of the end of September 2006 was 2253, an increase of 19% over September 2005.

The Board is taking all possible measures to deal with the backlog, and to get back as soon as possible to achieving its overall strategic objective to dispose of 90% of cases within 18 weeks. These include putting in place additional resources and considering other options to increase output. The Board regrets the delays that are occurring at present.

It appears that the continuing high volume of appeals reflects the general increase in planning applications to local authorities and is not due to an increase in the rate of appeal, which has consistently remained at around 7% nationally.

Appeals relating to larger housing schemes (30+ units) are continuing at a high level. Over the past year the Board has dealt with a relatively large number of appeals involving hotel developments, related to the termination of tax incentives, and also to quarries reflecting the general tightening up of the control of quarry developments under the 2000 Act and the extent of the road building programme.

## **GENERAL TRENDS IN 2005 REPORT**

The following are some general trends in normal planning appeals contained in the 2005 report:-

- The share of local decisions appealed, which were reversed by the Board was 30%, compared to 32% in 2004.
- First party appeals against refusal resulted in grants of permission in 24% of cases, down from 28% in 2004.
- Third party appeals against grants of permission resulted in 40% refusals, similar to 2004.
- 27% of appeals were disposed of without a formal decision by the Board, mainly because they were invalid or withdrawn (29% in 2004).

## **MAJOR INFRASTRUCTURE PROJECTS**

Up to now, infrastructure projects have come before the Board either by way of planning appeal where they are privately sponsored or by way of direct application where they are local authority sponsored. The Board has put in place systems to prioritise and avoid undue delays in the planning stage of these projects. For example, the average time taken to formally decide local authority projects in 2005 was 22 weeks, the same as in 2004 (most of these cases are subject to the oral hearing process). The Board is continuing this level of performance in 2006.

## **NATIONAL ROADS**

The Chairperson said that some local authorities were not giving enough attention to the need to protect the multi-billion euro investment programme now being undertaken in the national roads network. The Board has refused approval for a number of proposals designed to facilitate local development but at the expense of the

carrying capacity and safety of national roads. There is a severe risk that unless attention is strongly focussed on the real purpose of the current national roads investment programme – to facilitate safe and efficient transport between the major urban centres – it will be lost sight of in favour of local considerations. Already, there are signs that major retail, commercial and residential developments are being attracted to greenfield sites at strategic junctions on new national primary roads, piggy backing on these roads as distributors for local traffic. It can also have negative consequences for the proper planning and coherent future development of the towns concerned. If we're not careful, the town will gradually move to clog up the by-pass and we'll have to move the by-pass again! If planning is about anything, it is about preventing these kinds of consequences – the potential massive waste of public resources and tearing the heart out of the town. The Chairperson welcomed the recent policy document issued by the NRA in this area.

## **DEVELOPMENT CONTRIBUTIONS**

The Planning and Development Act 2000 revised the statutory basis for the charging of development contributions by planning authorities so that new development would make an appropriate contribution to the financing of the infrastructure that is necessary to underpin development. The new provisions were intended to ensure that contributions levied would be based on the actual investment and be calculated in an equitable, transparent and predictable manner. The Board is receiving a significant number of appeals relating to contributions being levied in individual cases. However, the Board is bound to apply the terms of the local authorities' adopted Development Contribution Scheme even if the impact might appear undesirable in planning terms or otherwise indefensible. For example, under some schemes the charge for a small apartment is considerably more than that for a much larger house, an extension can cost more than a new house, underground carparking is chargeable while surface parking is not (with obvious undesirable planning consequences), no credit is given for existing development on urban or brownfield sites thus favouring greenfield developments again promoting bad planning results. An analysis of appeal outcomes in relation to development contributions shows that a high proportion are resulting in changes by the Board reflecting either an incorrect application by the local authority of their own scheme or the inappropriate inclusion of special contributions on top of the standard contributions levied under the scheme.

The Board also notes the inappropriate use of special financial contributions including the informal adoption by some authorities of 'special contribution schemes', for which there is no statutory provision. The proper mechanism where such contributions are justified is to formally adopt one or more schemes in respect of different parts of the local authority area or to formally adopt a supplementary development contribution scheme. The Board has, in a number of cases, deleted special contributions where it considered that the matters should have been covered in a formally adopted scheme.

From experience to date in looking at the various schemes, it is obvious to the Board that many were made in a hurry to meet the statutory deadline of 11<sup>th</sup> March 2004 and are giving rise to unintended and undesirable consequences and would greatly benefit from review by the local authorities at this stage.