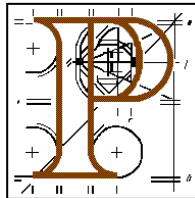


SECTION 15 REFERENCE BOOK

GUIDE TO THE FUNCTIONS AND RECORDS OF AN BORD PLEANÁLA
REFERENCE BOOK UNDER SECTION 15 OF FREEDOM OF INFORMATION ACT,

An Bord Pleanála



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- 6.1 Classes of Records held by the Board

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1.

INTRODUCTION

1.1 The Freedom of Information Act

The Freedom of Information Act, 1997, as amended by the Freedom of Information (Amendment) Act, 2003, establishes three statutory rights:

- a legal right for each person to access information held by public bodies;
- a legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading;
- a legal right to obtain reasons for decisions affecting oneself.

The Act asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals. The Act is designed to allow public access to information held by public bodies which is **NOT** routinely available through other means.

This reference has been prepared and published in accordance with section 15 of the Act. Its purpose is to facilitate access to official information held by the Board by outlining the structure and functions of the Board; details of the services the Board provides and how they may be availed of; information on the classes of records the Board holds and information on how to make a request to the Board under the Freedom of Information Acts.

Information on making requests under the Freedom of Information Act are covered in Chapter 5

1.2 Public Access to Bord Pleanála Files

The open nature of the planning appeal system was a feature of the system before the Freedom of Information Act came into effect. Under section 142(4) of the Planning and Development Act, 2000, the entire file on an appeal received by the Board may be inspected by any member of the public for five years starting on the third working day after the appeal is determined.

The Board welcomed the introduction of the system when it was first introduced under the Local Government (Planning and Development) (No. 2) Regulations in April, 1995 and this access facility has proved to be very popular. The Board welcomed the introduction of the Freedom of Information Act which promotes access to information in the possession of public bodies. This means that for the vast majority of situations where access to information on decided appeals and other cases is desired, the information will be already publicly available so that the granting of access under the Freedom of Information Act might not be appropriate.

There is more information on the system in place in chapter 4 of this reference book. Anyone intending to seek information in relation to decided appeals should familiarise themselves with the content of chapter 4 beforehand.

1.3 Routinely Available Information

In addition to 1.2 above the Board currently makes information routinely available to the public in relation to its functions and activities. Such information will continue to be made available informally without the need to invoke the Freedom of Information Act. This reference book provides information in relation to the Board's functions and activities and how information of this nature can be accessed.

Access to information under the Act is subject to certain exemptions and involves specific procedures and time limits. This manual provides a guide to the structure of the Board so as to help you access information under the Freedom of Information Act. Information on making a request under this Act is set out in chapter 5.

1.4 Web Site

The Board introduced its own internet website in December, 1997. The site covers many of the topics dealt with in this reference book. It is to be found at <http://www.pleanala.ie/>

2.1

BOARD MEMBERS

The Planning and Development Act, 2000 provides for the appointment of a Chairperson and other members of the Board. Board Members carry out their duties on a whole-time executive basis.

Method of appointment of Board Members.

The Chairperson is appointed by the Government from a list of candidates selected by an independent committee in accordance with section 105 of the 2000 Act, chaired by the President of the High Court. The Government is generally required to make the appointment from among not more than three persons selected by that committee and found by them to be suitable for appointment. The Chairperson of the Board normally holds office for seven years and may be re-appointed for a second or subsequent term of office provided he or she is Chairperson at the time of the re-appointment.

The 2000 Planning Act provides for the appointment of 7 other members of the Board. Six of the members are appointed by the Minister for the Environment and Local Government from among persons selected by six groups of organisations prescribed by Regulations and representative of professional, environmental, development, local government, rural and local development and general interests. The other member is appointed by the Minister from among the officers of the Minister who are established civil servants. These members normally hold office for a term of five years and may be re-appointed for a second or subsequent term provided that the person concerned is an outgoing member at the time of the re-appointment.

The 2000 Act makes special provision for the appointment of additional members, where the intake of cases justifies such an increase. There are now ten Board members.

Members of the Board

Members CV

John O'Connor was appointed Chairperson of the Board for a 7 year term to 5th May, 2007. He was reappointed until 12th June, 2011. Prior to his appointment he had been since July, 1995 an Assistant Secretary in the Department of Environment and Local Government in charge of the Planning and Development Division, with responsibility for Planning, Spatial Planning, Urban and Village Development, Construction, Water Services and Public Private Partnerships. Prior to that he served as Principal Officer in the Housing Policy and Finance Section of the Department and as the Department's Finance Officer. He obtained a diploma in Public Administration from U.C.D.



Brian Hunt was appointed Deputy Chairperson of the Board on 21st November, 2001. He was initially appointed on 1st January, 1999. He was reappointed for a further five year term until November, 2006 and has been reappointed until 30th December, 2010. He is a graduate in Civil Engineering from U.C.C. He holds a postgraduate Diploma in Physical Planning from T.C.D. and is a member of the Institution of Engineers of Ireland. Prior to his appointment to the Board he worked as a Senior Executive Engineer in the Planning Department of Meath County Council.



Margaret Byrne was appointed to the Board on 6th February, 1995 for a term of five years. She was reappointed for further five year terms until February 2010. She is an established Civil Servant. She served as a Principal Officer in the Environment Division of the Department of the Environment and Local Government and had previous service in the Roads and Local Government Divisions in that Department.



Angela Tunney was appointed to the Board on the 10th March, 2000. She was reappointed for a five year term until 6th November, 2011. She is a graduate of U.C.D. holding a Bachelor of Architecture degree and a Masters in Regional and Urban Planning. She has worked as an architect in Germany and England for six years. Joining Aer Rianta in 1991, she has worked in an architectural and project management capacity prior to her appointment to the Board.



Brian Swift was appointed to the Board on the 3rd December, 2001. He was reappointed for a five year term until 2nd December, 2011. He is a former city and county councillor and served on a number of committees including the planning committee of Waterford Corporation. He graduated from UCC with a Bachelor of Civil Law degree, practiced as a solicitor for upwards of 20 years and lectured in law at Waterford Regional Technical College (now Waterford Institute of Technology).



Jane Doyle was appointed to the Board in January, 2002. She was reappointed for a five year term until 31st December, 2011. She holds a Masters degree in Regional and Urban Planning and a diploma in Environmental Impact Assessment Management from UCD. She has extensive local authority experience and was a Senior Planning Inspector in the Board until her appointment as a Board member.



Karl Kent was appointed to the Board on the 1st January, 2002. He was reappointed for a five year term until 31st December, 2011. He qualified in architecture (B.Arch) and town planning (Dip.T.P) in UCD and has a post-graduate diploma in Environmental Impact Assessment Management and a Master's in Urban and Building Conservation from the same institution. He is a member of The Royal Institute of the Architects of Ireland and of the Irish Planning Institute. After working for some years as an architect in both the private and public sectors, he joined the local authority planning service before joining the Board's staff in 1989. He was a Senior Planning Inspector in the Board until his appointment as a Board member.



Mary Bryan was appointed to the Board for the period 4th April 2005 until 3rd April 2010. Before her appointment, she was Chief Executive of the Irish Georgian Society, with responsibility for planning, education and conservation. She is a qualified architect (B.Arch) and holds a Masters degree in Urban and Building Conservation. She is a member of the Royal Institute of the Architects of Ireland.



Mary MacMahon was appointed to the Board for the period 27th November, 2006 until 26th November, 2011. She holds a Masters Degree in Town and Country Planning from Queen's University, Belfast. She worked as a planning consultant in the private sector and was a member of the Aquaculture Licences Appeals Board.



Conall Boland was appointed to the Board for the period 1st January, 2007 until 31st December, 2011. He is a graduate in Civil Engineering from Trinity College, Dublin and holds a DEA in Civil Engineering from the ENS Cachan, France. He also holds a Masters Degree in Spatial Planning from the Dublin Institute of Technology. Prior to his appointment to the Board he was Technical Director with RPS Consulting Engineers. He is a chartered member of the Institution of Engineers of Ireland.



2.2

STRUCTURE OF THE BOARD

Chairperson
*John O'Connor

Deputy Chairperson
*Brian Hunt

Board Members
Margaret Byrne
Angela Tunney
Brian Swift
Jane Doyle
Karl Kent
Mary Bryan
Mary MacMahon
Conall Boland

Chief Officer
*Padraic Thornton

ADMINISTRATIVE STAFF

Director of Corporate Affairs
*Gerard Egan

*Chris Clarke (Secretary)
*Diarmuid Collins
*Brid Hill
*Mary Holohan
*Mary Kelly
*Carol Moloney

PROFESSIONAL STAFF

Director of Planning
*Des Johnson

Deputy Planning Officers
*Philip Jones
*Mary Cunneen
*David Dunne
*Philip Green
*Philip Green

*Ellen Morrin
*Paddy Tallon

Senior Planning Inspectors

Planning Inspectors

Senior Executive Officers

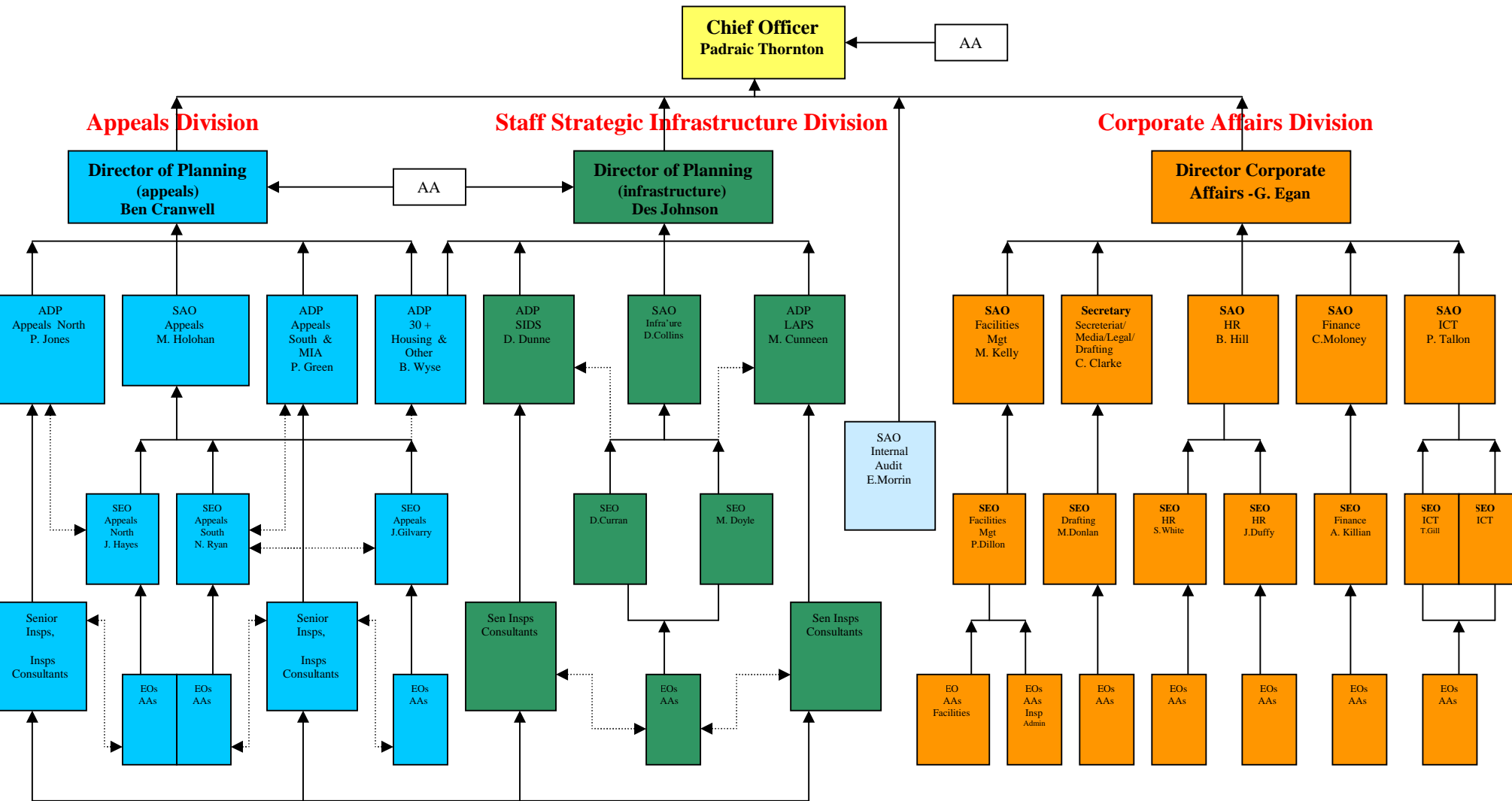
Executive Officers

Administrative Assistants

*Members of Management Committee

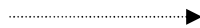
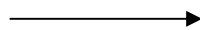
An Bord Pleanála – Staff Organisation (incorporating SSID) 172 Staff

January 2009



ADP = Assistant Director Planning
 SAO = Senior Administrative officer
 SEO = Senior Executive officer
 EO = Executive Officer
 AA = Administrative assistant
 MPAs = Major planning appeals

Reporting relationships



3. FUNCTIONS OF THE BOARD

3.1 Introduction

An Bord Pleanála was established in 1977 under the Local Government (Planning and Development) Act, 1976 as an independent, corporate body and is responsible for the determination of appeals, references and certain other matters under the Local Government (Planning and Development) Acts, 1963 to 1999, and more recently the Planning and Development Act, 2000. The Board is also responsible for dealing with appeals under the Building Control Act, 1990, the Local Government (Water Pollution) Acts, 1977 and 1990 and the Air Pollution Act, 1987.

APPEALS UNDER THE PLANNING ACTS

3.2 Normal Planning Appeals

Appeals under section 26 of the 1963 Planning Act and section 37 of the 2000 Planning Act, usually referred to as normal planning appeals, constitute the principal task of the Board and account for most of the decisions made by it. These appeals arise from decisions by the planning authorities on applications for permission for the development of land (including applications for the retention of structures or the continuance of uses). The provisions relating to normal planning appeals under section 37 of the 2000 Planning Act were commenced on 11th March 2002 and apply to such appeals where the planning application was made to the planning authority on or after that date. Appeals fall into three categories, namely:

- First party appeals against decisions of planning authorities to refuse permission.
- First party appeals against conditions proposed to be attached to permissions by planning authorities.
- Third party appeals, which are normally against decisions of planning authorities to grant permission.

In some cases, there may be both first party and third party appeals against a decision of a planning authority.

In addition to the parties to an appeal, there may also be "observers", i.e. other persons who make submissions or observations to the Board in relation to an appeal.

3.3 Local Authority Projects

On the 1st January, 2001 the Board became responsible under the Planning and Development Act, 2000 for assessing and determining major local authority infrastructural developments within their own functional areas (including motorways and road projects) and also local authority proposals for the compulsory acquisition of land. Previously, these functions were carried out by the Minister for the Environment, Heritage and Local Government. Local authority projects which now fall to the Board to be determined can generally be grouped under six categories, viz-viz, Compulsory Acquisitions, Road Projects, Other Projects requiring environmental impact assessment (EIA), Sub-threshold EIA cases, Scoping and Exemption from EIA Requirements.

Compulsory acquisitions

In accordance with section 214 of the 2000 Act, where a local authority proposes to acquire compulsorily land for any of its statutory functions under:

Public Health (Ireland) Act, 1878
Local Government (Ireland) Act, 1898
Local Government Act, 1925
Water Supplies Act, 1942
Local Government (No. 2) Act, 1960
Local Government (Sanitary Services) Act, 1964

Housing Act, 1966
Derelict Sites Act, 1990,
Roads Acts, 1993 and 1998, or
Dublin Docklands Development Authority Act, 1997.

Persons with an interest in land have a right to object and have their objections adjudicated on by the Board. (For the purposes of the Board's functions in relation to compulsory acquisition under sections 214 and 216 of the 2000 Act, the Dublin Docklands Development Authority are considered to be a local authority).

Road projects

In accordance with section 215 of the 2000 Act, where a local authority proposes to carry out a motorway project or a proposed road development requiring EIA the Board's approval must be obtained under the Roads Act, 1993.

Other local authority projects requiring environmental impact assessment

Where a local authority proposes to carry out other (non-roads) development within its own functional area that is subject to EIA e.g. waste treatment plants, the planning authority is required to apply to the Board for approval of the project in accordance with section 175 of the 2000 Act. Development which is subject to mandatory EIA is set out in Schedule 5 to the Planning and Development Regulations, 2001.

This approval replaced the process of EIS certification in respect of applications lodged after the 8th of March, 2002. In respect of such development which is proposed wholly or partly on the foreshore, an application for approval under section 226 of the 2000 Act must be made.

Sub-threshold EIA cases

Where development is of a type set out in Schedule 5 of the 2001 Regulations but which does not exceed a quantity, area or other limit specified in the Schedule in respect of the relevant class of development (sub-threshold development), the Board may require the local authority to submit an EIS where the Board considers that the development would be likely to have significant effects on the environment.

Scoping

Where a local authority is required to submit an EIS to the Board (whether in mandatory or in sub-threshold cases), the local authority may request the Board to provide a written opinion on the information to be obtained in the EIS (scoping).

Exemption from EIA requirements

In exceptional circumstances, the Board may grant an exemption to a local authority from the requirement to prepare an EIS in certain cases.

REFERENCE AND OTHER CASES UNDER THE PLANNING ACTS

3.4 Leave to Appeal

Section 37(6)(a) of the 2000 Act provides that, in certain circumstances, a person with an interest in land adjoining land for which a decision to grant permission has been made did not make a submission or observation to the planning authority in relation to the application, may seek leave to appeal the decision of the planning authority.

References/Referrals

Section 5 of the 2000 Act provides for a referral to the Board of a declaration by a planning authority on a question sent to them by a person as to what, in any particular case, is or is not development or exempted development. Section 5 of the 2000 Act also provides that, where a planning authority fails to issue a declaration within 4 weeks of such a question being sent to them, the person seeking the declaration may refer the matter to the Board. A planning authority may also refer such a question directly to the Board.

APPEALS UNDER OTHER ACTS

3.5 Building Control Act

Section 7 of the Building Control Act, 1990 provides that an applicant who is dissatisfied with the decision of a building control authority relating to an application for:

- a fire safety certificate, or
- a dispensation from, or relaxation of, any requirement of building regulations

may appeal the decision to the Board.

Water Pollution Acts

The Local Government (Water Pollution) Acts, 1977 and 1990 provide for appeals to the Board in relation to licences under these Acts. Section 8 of the 1977 Act, as amended, enables any person to appeal to the Board in relation to the grant, refusal to grant or revocation of a licence to discharge effluent to waters, the attachment of conditions or additional conditions, or the amendment or deletion of conditions. Section 20 of the 1977 Act, as amended, enables a person to whom a licence has been refused in relation to a discharge to a sewer, to appeal to the Board in relation to the refusal. Where a licence to discharge to sewers is granted or reviewed, the occupier of premises from which the licence to discharge relates may appeal to the Board in relation to the revocation of the licence, the attachment of conditions or additional conditions, or the amendment or deletion of conditions.

Air Pollution Act

Section 34 of the Air Pollution Act, 1987 provides for appeals to the Board in relation to licences under the Act. Any person may appeal to the Board in relation to the granting or refusing of a licence under section 32 or to the granting of a revised licence under section 33.

3.6 Main Features of the Planning Appeal System

There are three main characteristics of the system –

- The system is independent,
- the system is designed to be fair and impartial, and
- the system is open.

The Planning Acts contain clear provisions concerning the independence of the Board. Staffing levels and expenditure by the Board are subject to Ministerial control. The Minister for the Environment, Heritage and Local Government is also empowered to issue general policy directives relating to planning and development and the Board is required to have regard to such directives. However, the law provides that this power does not enable the Minister to exercise any power or control in relation to any particular appeal. In 1976, it was accepted generally that the Board should be set up because political parties at the time agreed that an independent tribunal should deal with appeal decisions in an area as controversial and sensitive as land development. The Board is conscious of the need to discharge this responsibility in a satisfactory manner. While maintaining its independence, the Board advises the Department on possible policy changes relating to physical planning in the light of the Board's experience of considering individual planning appeals on a national basis.

In determining individual appeals, the Board acts in a quasi-judicial role in accordance with the principles of natural justice. Unlike most planning appeal systems in Europe, third parties may make appeals under the Irish system. The proportion of such appeals is growing and in 2001, third party appeals represented 45% of determined planning appeals. 26 oral hearings were held in that year to assist the Board in particularly complex cases or where significant national or local issues were involved.

There is no political interference in decisions by the Board in individual cases. Under section 114 of the Planning and Development 2000, it is unlawful to communicate with any member of the Board for the purpose of influencing improperly his/her consideration of an appeal or a Board decision. There are also legal obligations on members and employees of the Board to declare certain interests. The Board's procedures are such that no single person, be it Board member, inspector or other staff member can ensure what the Board's decision will be in a particular appeal. The quorum for the Board meeting is three members and all members normally attend a Board meeting where a particularly complex or sensitive case is involved. In considering an appeal all submissions on the file are considered together with the inspector's report (including recommendation). The Board gives due consideration to the report, but the decision may be at variance with the recommendation; in 2001, the Board accepted the general thrust of the inspector's recommendation in 91% of cases.

The long title to the 2000 Planning and Development Act indicates that the main purpose of the Act is to make provide, in the interests of the common good, for the proper planning and sustainable development of an area. When an appeal is made to the Board, it is normally required to determine the application as if it had been made to it in the first place. The Board is generally bound, therefore, to apply the same criteria as the planning authority; in particular, it is generally restricted to considering the proper planning and development of the area. Planning Authorities have a duty under the Local Government Act, 1991, in the performance of their functions under any enactment, to have regard to policies and objectives of the Government or any Minister insofar as they may relate to their functions.

In interpreting the 'proper planning and development' of an area, the Board is empowered to contravene the provisions of a development plan, but it seldom sees the need to exercise this power. The Board will in appropriate cases take account of public policy on major issues since the Board is required by section 143 of the Planning and Development Act, 2000, to keep itself informed, so far as may in its opinion be necessary, of relevant policies and objectives of Ministers, planning authorities and certain other public authorities. Where policy on economic development and job creation is a material consideration in an appeal, it is the Board's practice to refer to these factors in its decision, but such factors are a material consideration in exceptional cases only. The Board has regard to the principles of sustainable development and it tries to strike the appropriate balance between environmental and economic considerations in determining appeals.

The Board, where it determines the appeal as if it were made to it in the first instance, conveys its decisions on individual appeals by way of sealed orders, which include reasons for the decisions. Having regard to the nature and extent of the appeal process and the provision for a judicial review of a decision in an individual appeal, the Board does not engage in public discussions on the pros and cons of its decisions.

The Board endeavours to maintain the quality of its decisions at a high level and to make decisions which are consistent and clear. During the three-year period 1995/97, there were only three successful legal challenges to Board decisions by way of judicial review.

A notable feature of the appeal system is the present open nature of the system. The entire file on an appeal received by the Board may be inspected by any member of the public for five years starting on the third working day after the appeal is determined. Copies of any documents on the may be purchased at the Board's offices. There is no 'hidden agenda' in individual appeal files. In the context of the Irish Public Service, the appeal system is an exceptionally open system. This access facility is very popular.

3.7 How to make a Planning Appeal

Appended (A) to this reference book is a copy of a leaflet ‘Making a Planning Appeal’, prepared by the Department of the Environment, Heritage and Local Government. And a leaflet (B), ‘Making a Planning Appeal under the 2000 Planning Act’. This information is also available on the Board’s web site at <http://www.pleanala.ie/2000appeal.html>.

3.8

Guide to Fees payable to the Board - 2007

This guide does not purport to be a legal interpretation of the fees payable to the Board. A copy of the Board’s order determining fees under the Planning Acts is obtainable from the Board. Further information about fees under other legislation may be found in the appropriate legislation and is also available from the Board.

<i>Case Type</i>	<i>On or after 10th December 2007</i>
Planning Acts [1]	
a. Application for strategic infrastructure development or a request to alter the terms of such development already permitted or approved.	€100,000 [2]
b. Appeal against a decision of a planning authority on a planning application relating to <u>commercial development</u> [3] , made by the person by whom the planning application was made, where the application relates to <u>unauthorised development</u> .	€4,500 or €9,000 if EIS involved [4]
c. Appeal against a decision of a planning authority on a planning application relating to <u>commercial development</u> [3] , made by the person by whom the planning application was made, other than an appeal mentioned at (b).	€1,500 or €3,000 if EIS involved [4]
d. Appeal against a decision of a planning authority on a planning application made by the person by whom the planning application was made, where the application relates to <u>unauthorised development</u> , other than an appeal mentioned at (b) or (c).	€660
e. Appeal other than an appeal mentioned at (b), (c), (d) or (g) [5] .	€220
f. Application for leave to appeal.	€110
g. Appeal following a grant of leave to appeal.	€110
h. Referral.	€220
i. Reduced fee (payable by specified bodies [6]).	€110
j. Submissions or observations (by ‘observer’) on strategic infrastructure development applications, appeals and referrals.	€50
k. Request from a party for an oral hearing of an appeal or referral.	€50
<i>Water Pollution Acts</i>	
Appeal.	€126
Reduced fee (payable by certain prescribed bodies).	€63
Submissions or observations (by observer).	€38
Request from a party for an oral hearing of an appeal.	€63

<i>Air Pollution Act</i>	
Appeal.	€60
Submissions or observations (by observer).	€10
Request from a party for an oral hearing.	€60
<i>Building Control Act</i>	
Appeal.	€250

^[1] Fees under the Local Government (Planning and Development) Regulations 2001 (SI 525 of 2001) apply to appeals and other matters where the application or other matter was made to the planning authority before 11th March 2002.

^[2] In a case where the Board can recover the costs of determining the application, the fee will be offset against such costs.

^[3] Commercial development includes 2 or more dwellings.

^[4] The higher fee applies where an environmental impact statement (EIS) was submitted to the planning authority under section 172(1) of the 2000 Planning Act or article 103(1) of the 2001 Planning Regulations except where the appeal relates solely to a section 48 / 49 development / supplementary development contribution scheme and/or a special financial contribution.

^[5] Applies to:- (i) All third party appeals except where the appeal follows a grant of leave to appeal; (ii) First party normal planning appeals (section 37) not involving commercial or unauthorised development, or an EIS; (iii) All other appeals (non-section 37).

^[6] These bodies are specified in the Board's order which determined fees. They include planning authorities and certain other bodies, e.g. National Roads Authority, Fáilte Ireland, who have a statutory role under planning legislation.

Last modified: 21/04/2009

4. INFORMATION AVAILABLE UNDER LEGISLATION AND ROUTINELY AVAILABLE INFORMATION

4.1 Public Access to Files under the Planning and Development Act 2000

A Guide to Procedures

4.1.1 General

Under provisions in the Planning and Development Act, 2000 any person may inspect files relating to certain appeals and other cases which are decided by the Board. This guide sets out answers to commonly asked questions concerning access to these files.

4.1.2 Which files may I inspect?

A file on an appeal and other case with which the Board is concerned can be inspected free of charge after the case has been determined. Each of these files can be inspected for at least a five year period starting on the third working day following the day on which the appeal or other matter is determined.

4.1.3 When can I inspect files?

Files may be inspected at the Board's offices on weekdays between 10am – 12.30pm and 2.30pm – 4.30pm except on public holidays and other days on which the offices are closed.

4.1.4 Will all files be available on demand?

Generally, files will be available on the third working day following the day on which the appeal or other matter is determined. Files up to 3 years old are generally, but not always, available on demand. For example, the Board's Inspector may have a file out of the Board's offices for a few days in connection with an inspection relating to a current appeal. Please telephone (01) 858 8100 or LoCall 1890 275 175 if you wish to check whether you may inspect a particular file without delay or if you wish to purchase copies of documents.

4.1.5 May I purchase copies of documents on files.

Copies of any document on the files (including the report of the Board's Inspector, the Board's Direction and the Board's order) may be purchased during the hours referred to at 3 above. The purchase price at present is 10c per A4 size page, with a minimum charge of 1. Documents or other information, which are larger than A4 size or in colour, may be charged at higher rates. Copies of documents may only be collected by or posted to you when the copying charge has been paid. The Inspector's report, Board's Direction and Board's order may be viewed and downloaded from the Board's website at www.pleanala.ie at no cost by the Board.

4.1.6 Is the Board's decision final?

Yes. The validity of the Board's decision on a planning appeal cannot be questioned otherwise than by way of application to the High Court for judicial review within 8 weeks commencing on the date on which the decision is given in accordance with section 50 of the Planning and Development Act, 2000. The Court will not reopen the planning merits of the case and leave to apply for a judicial review may not be granted unless the High Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and the person seeking the judicial review has a substantial interest in the matter.

It would not be appropriate for the Board to give advice on the legal procedures relating to an application for judicial review.

4.1.7 Can I discuss the case with a member/staff of the Board?

The procedures for inspection and purchase of appeal documents are designed to provide better access by the public to the information on which the decision was based. Further improvements in this regard will be made as resources permit. It is not the practice of the Board's staff to discuss planning or procedural issues relating to an individual appeal which has been determined since the Board has no power to reopen these issues. While nominated staff will deal with general enquiries, Board members and Inspectors should not be contacted in relation to any matter. All correspondence should be directed to the Secretary.

4.1.8 Who enforces the decision?

Enforcement of planning decisions, whether made by the Board or a planning authority, and interpretation of conditions imposed in decisions are primarily the responsibility of your local planning authority. The Board has no powers of enforcement. Any person may apply to High or Circuit Courts for an injunction in relation to unauthorised development in certain circumstances.

Note. This document is intended as a guide and does not purport to be a legal interpretation of the law.

An Bord Pleanála
64 Marlborough Street
Dublin 1

Tel (01) 858 8100
LoCall 1890 275 175
Fax (01) 872 2684

Web Site <http://www.pleanala.ie>
E-mail bord@pleanala.ie

4.2 Weekly Lists

In accordance with Regulations, the Board publishes and displays at its offices weekly lists giving details of all appeals received and determined, dismissed or withdrawn. Lists which include listings of oral hearings may be inspected and/or purchased by members of the public. This is done either by calling go the reception desk or by paying a yearly fee to be put on the mailing list.

4.3 Annual Report

In the report, you will find information on such matters as the functions of the Board, the membership of the Board, the staffing structure and the Board's accounts.

There is also detailed statistical information covering the intake of appeals for the year to which the report relates and trends over a number of years by reference to types such as section 26 and section 37 cases, references and determinations and the nature of decisions within certain classes.

4.4 Web Site

The Board introduced its own internet website in December, 1997. The site covers many of the topics dealt with in this reference book. It is to be found at <http://www.pleanala.ie/>. The Inspector's report, Board's order and Board's direction may be viewed and downloaded from the Boards website. New Cases, Decided cases and Oral Hearing details are posted on the website each Wednesday, or Thursday in the case of a bank holiday.

4.5 Information Leaflets

The following leaflets have been published by the Department of Environment, Heritage and Local Government:

1. Making a planning appeal. (Copy of leaflet attached). (Appendix A)
2. A guide to planning permission.
3. Making a planning application.
4. Commenting on a planning application.
5. Building a house – The planning issues.
6. Doing work around the house – The planning issues.
7. Agricultural and Farm Development – The planning issues.
8. Planning for the business person.
9. The Development Plan.
10. Environmental Impact Assessment.
11. A guide to the Building Regulations.

**Guide to
Rates Payable for Public Access**

Copy Type	Cost Per Page
A4 Black	€0.20
A4 Colour	€1.25
A3 Black	€0.40
A3 Colour	€1.75
A2 Black	€2.25
A2 Colour	€2.75
A0/A1 Black	€3.00
A0/A1 Colour	€3.50
CD	€6.00 per disc

5. HOW TO GET INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

5.1 General Information on the Freedom of Information Act

Applications must be in writing and should indicate that the information is sought under the Freedom of Information Act. To facilitate access, a person may complete the attached form entitled “Request for Access to Records under the Freedom of Information Act, 1997” (Appendix C). Please give as much detail as possible to enable the staff of the Office to identify the record. Please ensure that the correct fee is accompanies the request as set out in 5.2. If you have difficulty in identifying the precise records which you require, the staff of the Office will be happy to assist you in preparing your request.

The Board is obliged to respond to the request within four weeks. Requests are due to be acknowledged within two weeks.

Under the Freedom of Information Act, anyone is entitled to apply to the Board for access to information that is held by it and not otherwise publicly available. Each person has a right to:

- access to records held by the Board,
- correction of personal information relating to oneself held by the Board where it is inaccurate, incomplete or misleading,
- access to reasons for decisions made by the Board directly affecting oneself.

The following records come within the scope of the Act:

- all records relating to personal information held by the Board irrespective of when created,
- all other records created from the date on which the Freedom of Information Act comes into effect, (**that is 21st April, 1998**),
- any other records necessary to the understanding of a current record.

The right of access does not apply to “exempt records” which are specified in detail in the Act.

The Act does not apply to records already publicly available. For example, an appeal determined by the Board is available for purchase/inspection under the Board’s public access system - please ask at reception.

5.2 Applications under the Freedom of Information Act

Applications for information under the Freedom of Information Act should be addressed to:

Mr. Pierce Dillon
Freedom of Information Officer,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Phone (01) 8588100
Fax (01) 8722684
Email: p.dillon@pleanala.ie

- A standard application fee of **€15** must accompany an FOI request under section 7 for a record or records containing non-personal information.
- A reduced fee of **€10** applies if the person making such a request is covered by a medical card.
- The following requests/applications are exempt:
 - (a) a request under section 7 for a record or records containing only personal information related to the requester.
 - (b) an application under section 17 (right of amendment of records relating to personal information).
 - (c) an application under section 18 (right of person to information regarding acts of public bodies affecting the person).

5.3 Rights of Review and Appeal

The Act sets out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or of third parties. Where a public body invokes these provisions to withhold information, the decision may be appealed. Decisions in relation to deferral of access, charges, forms of access, etc. may also be the subject of appeal. Details of the appeals mechanisms are as follows:

5.4 Internal Review

You may seek internal review of the initial decision if:

- (a) **you are dissatisfied with the initial response received e.g. refusal of information, form of access, charges, etc., or**
- (b) the application has not received a reply within 4 weeks of your initial application. This is deemed to be a refusal of the request and allows the applicant to proceed to internal review.

The review is carried out by an official at a higher level. Requests for internal review should be submitted in writing to:

Ms. Mary Kelly
 An Bord Pleanála,
 64 Marlborough Street,
 Dublin 1.

Phone (01) 8588100
Fax (01) 8722684
Email: m.kelly@pleanala.ie

Such a request for internal review must be submitted within four weeks of the initial decision. The internal review must be completed within three weeks. The internal review must normally be completed before an appeal may be made to the Information Commissioner.

- A standard fee of **€75** must accompany an application for internal review under section 14.
- A reduced fee of **€25** applies if the person bringing the application is a medical card holder or a dependant of a medical card holder.
- The following internal review applications are exempt:
 - (a) an application in relation to a decision concerning records containing only personal information related to the applicant.

- (b) an application in relation a decision under section 17 (right of amendment of records relating to personal information).
- (c) an application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).
- (d) an application in relation to a decision to charge a fee or deposit, or a fee or deposit of a particular amount.

5.5 Review by the Information Commissioner

Following completion of internal review, an applicant may seek an independent review of the decision from the Information Commissioner. Also, if you have not received a reply to your application for internal review within three weeks, this is deemed to be a refusal and an applicant may appeal the matter to the Commissioner.

Appeals in writing may be made to the Information Commissioner at the following address:

Office of the Information Commissioner,
19 Lower Leeson Street,
Dublin 2.

Phone (01) 6395689

Fax (01) 6610570

E-mail foi@ombudsman.gov.ie

Web: www.oic.ie

His or her findings will be binding, subject to appeal to the High Court on a point of law.

- A standard fee of **€150** must accompany applications to the Information Commissioner for review of decisions made by public bodies under section 34.
- A reduced fee of **€50** applies if
 - (a) the person bringing the application is a medical card holder or a dependant of a medical card holder or
 - (b) the person is specified in section 29(2) i.e. a third party with the right to apply directly to the Information Commissioner where a public body decides to release their information on public interest grounds.
- The following applications to the Information Commissioner are exempt:
 - (a) an application concerning records containing only personal information related to the applicant.
 - (b) an application in relation a decision under section 17 (right of amendment of records relating to personal information)
 - (c) an application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).
 - (d) an application in relation to a decision to charge a fee or deposit exceeding €25.00 under section 47 in respect of search and retrieval and photocopying of records (decisions in relation to the charging of fees

or deposits for search and retrieval and/or photocopying of less than €25 are not subject to review by the Information Commissioner).

- (e) an application in relation to a decision to charge a fee under section 47(6A), or a fee of a particular amount under section 47(6A), on the grounds that the records concerned do not contain only personal information related to the requester or the requester is not a medical card holder or a dependant of a medical card holder.

5.6 Freedom of Information Fees (Table)

Guide to fees relating to Freedom of Information Requests/Applications
Effective from Monday 7th July 2003

Type of Request/Application	<u>Standard Fee*</u>	<u>Reduced Fee* & ** & ***</u>
<u>Request for a record under Section 7</u> Initial Request Internal Appeal Appeal to Information Commissioner	€15 €75 €150	€10 €25 €50
<u>Request under section 7 for personal information</u>	No Charge	No Charge
<u>Application under section 17 for amendment of a record containing incorrect, incomplete or misleading personal information</u>	No Charge	No Charge
<u>Application under section 18 for the reasons for a decision affecting the individual</u>	No Charge	No Charge

* Fee will not apply where a person appeals a decision to charge a fee or deposit, or a fee or deposit of a particular amount under section 47 of the FOI Act

**Reduced fee will apply in respect of third parties who appeal a decision of a public body to release their information on public interest grounds

***Reduced fee will apply to medical card holders and their dependants on production of their medical card

**Request for Access to Records under the
Freedom of Information Acts (FOI), 1997 and 2003**

The following records come within the scope of the Acts:

- all records relating to personal information held by the Board irrespective of when created.
- all other records created from the date on which the Freedom of Information Acts come into effect, **(that is 21st April, 1998)**,
- any other records necessary to the understanding of a current record.

The Act does not apply to records already publicly available. For example, an appeal determined by the Board, is available for purchase/inspection under the Board's Public Access system - please ask at reception.

Details of Applicant

Please use BLOCK letters

Surname: _____ **First Name** _____

Postal Address: _____

Telephone Number(s)

Home: _____

Business: _____

**Please see attached table of fees, and attach appropriate
fee with your request**

Form of Access

My preferred form of access is:
(please tick as appropriate)

- to receive copies of the records by post
- to view the records at the Board's offices
- other – please specify _____

PLEASE SIGN HERE _____ DATE _____

6. CLASSES OF RECORDS HELD BY THE BOARD

6.1 These classes are as follows:-

1. Personnel Information.
Personnel files relating to members and staff of the Board.
2. Personnel Code – available from the Department of Finance.
3. Pension Schemes.

4. **Flexible working scheme – carryover of annual leave – miscellaneous files relating to operation of personnel/general administration.**
5. **Files relating to appeals and other matters with which the Board is concerned.**
6. Accounts and salaries files.
Procedures relating to procurement of equipment/services.
Payment/receipt records made to/received from suppliers/customers.
7. Information Technology files.
8. Administration of appeals.
9. Statistics.
10. Annual Report and Accounts.
11. Minutes of Board meetings
12. *Code of conduct of Board members.*

Guide to Making a Planning Appeal – Revised 2010

The planning system includes a comprehensive appeals process. Under this, all planning decisions made by planning authorities may be subject to independent review by An Bord Pleanála (the Board). This leaflet gives details of the main features of the appeal process and is intended as a practical guide to the procedures under the 2000-2006 Planning Acts. It is not a definitive legal interpretation of the planning law. You are also advised to read “*Guide to Fees payable to the Board*” leaflet. This and further information is available from the Board or your local planning authority. This Guide does NOT deal with direct applications to the Board for planning permissions / approvals in respect of strategic infrastructure development. See separate guide for those procedures.

1. **Is there an official form for making an appeal?**

There is no statutory form for making an appeal. However, the Board has produced a ‘*Planning Appeal Form/Check List*’ which may be used as a cover page in an appeal. This document provides an easy-to-use guide which, if followed fully, should help to ensure that your appeal will be valid. Remember that the onus is on you to make a valid appeal. The document is available from the Board, may be downloaded from its website www.pleanala.ie and should be available from your local planning authority.

2. Who may appeal?

- An applicant for planning permission (**first party**), and
- any other person, body or interested group etc. who made submissions or observations in writing to the planning authority in relation to the planning application in accordance with permission regulations (**third party**). There are three exceptions to the requirement to have made prior submissions or observations: -
 - (1) where a prescribed body was entitled to be notified of a planning application by the planning authority and was not notified in accordance with law, the body may appeal the decision of the planning authority without having made submissions or observations on the planning application,
 - (2) where an environmental impact statement (EIS) was required to be submitted with the application to the planning authority, a body whose aims or objectives relate to the promotion of environmental protection and which meets certain other requirements may appeal the decision of the planning authority without having made submissions or observations on the planning application,
 - (3) a person with an interest in land (e.g. a landowner/occupier) adjoining the application site may apply to the Board for leave to appeal the decision of the planning authority without having made submissions or observations to the planning authority (see question 32).

3. Is there a time limit on appeals?

Yes. Except where a person is granted leave to appeal by the Board (see questions 2(3) and 32), an appeal must be received by the Board within four weeks beginning on the date of the making of the decision by the planning authority (N.B. not the date on which the decision is sent or received). The day the decision is made is counted as the first day. For example, if the decision of a planning authority is made on Wednesday 2nd of a month, the last day for receipt of the appeal is Tuesday 29th (not Wednesday 30th) of the same month. The Board’s website has a ready-reckoner to assist in calculating the last day for making an appeal.

Where a person is given leave to appeal, the appeal must be received by the Board within two weeks of him/her receiving notification of that fact.

These are strict statutory time limits. The Board has no discretion to accept late appeals, whether they are sent by post or otherwise. It is your responsibility to ensure that the appeal or other material is delivered or posted in time for delivery within the appropriate period. An appeal or other material posted within the permitted period but received outside it will be invalid. Further information on time limits is given in questions 28, 29 and 30.

4. How may I appeal?

Every appeal must be made in writing and must be:

- sent by **post** to: The Secretary,
 An Bord Pleanála,
 64 Marlborough Street,
 Dublin 1,
- or**
- delivered by **hand** to an employee of the Board at the Board’s offices during office hours (9.15 a.m. to 5.30 p.m. on Monday to Friday except on public holidays and other days on which the offices are closed). Appeals placed in the Board’s letterbox are invalid.

The appeal must be fully complete from the start – you are not permitted to clarify, elaborate or submit any part of it at a different time, even within the time limit. (See also question 15).

5. What must I include with my appeal?

- Your own name and address – both of which must be **clearly stated**. Where an agent makes the appeal on your behalf, he/she must **state clearly** his/her own name and address **and** your name and address.
- The subject matter of the appeal - you must give sufficient details to enable the Board to readily identify the application the subject of the appeal (e.g. a copy of the planning authority decision, or details of the nature and the site of the proposed development, or the name of the planning authority and the planning register reference number of the decision you are appealing).
- The grounds of appeal and supporting material and arguments. The Board cannot take into consideration any grounds of appeal or information submitted after the appeal (except information specifically requested by the Board) and it cannot consider non-planning issues; grounds of appeal should not, therefore, include such issues. (See also question 26).
- The correct fee. Details of fees are available from the Board or your local planning authority.
- In the case of a third party appeal a written acknowledgement (or copy thereof) by the planning authority of the receipt of submissions or observations made by the person (third party) at planning application stage.

6. What if my appeal is incomplete?

If the appeal does not meet all the legal requirements at the time the appeal is made (see the preceding paragraphs for guidance), it will be invalid and cannot be considered by the Board. (See also question 15).

7. Do different fees apply in different situations?

Yes. Where, for example, the appeal involves an EIS or relates to commercial development and/or unauthorised development (includes most development works and changes of use carried out without a grant of permission) and the appeal is made by the first party, higher than normal fees apply. Commercial development for this purpose includes, for example, the provision of 2 or more residential units (houses, apartments, etc), the conversion of a single residential unit into 2 or more residential units, the provision of a residential unit in conjunction with some other development, and the conversion of an existing structure or use into a residential unit and some other use. Different fees also apply to other categories such as “observers” (see question 12), certain public bodies and for oral hearings. Please refer to the Board’s “*Guide to Fees payable to the Board*” or its determination order on fees for more information.

8. Are appeal fees likely to change?

Yes. Under the Planning Acts, the Board is required to review the level of fees payable to it for making appeals, referrals, applications for leave to appeal, submissions or observations and oral hearing requests at least every 3 years. You should always check the latest position to ensure that you know the current applicable fee.

9. Can I see the planning authority file before appealing?

Yes. The planning authority will make available for public inspection the planning application and any submissions or observations received in relation to the application at its offices as soon as may be after they are received.

Within 3 working days of its decision, the planning authority will also make available for public inspection at its offices-

- the complete application and any additional information supplied by the applicant,
- its own reports on the application,
- its decision and notification of this to the applicant and any other person or body who made submissions or observations in relation to the application.

10. Can I get copies of documents relating to a planning application?

Yes. Copies of the documents referred to at 9 above may be purchased from the planning authority at reasonable cost.

- 11. Are there certain decisions or conditions of a planning authority on a planning application which cannot be appealed?**
- (a) There is no appeal to the Board where a planning authority decides to refuse permission on the basis of past failures of a developer or a related person to comply with a previous permission (and the High Court does not annul that decision).
 - (b) There is no appeal to the Board against a decision to grant permission consequent on the grant of an outline permission in respect of any aspect of the decision which was decided in the outline permission.
 - (c) Generally, there is no appeal to the Board in relation to conditions against financial contributions imposed under Development or Supplementary Development Contribution Schemes. However, appeals are permitted against special contribution conditions imposed by a planning authority and appeals are also permitted where a developer considers that the terms of a Development or Supplementary Development Contribution Scheme were not properly applied. In such cases, where there is no other appeal against the decision of the planning authority, the Board can only deal with the matter under appeal (see question 20) and the planning authority may make the grant of permission notwithstanding the appeal to the Board provided that the person taking the appeal furnishes to the planning authority security for payment of the full amount of the contribution or special contribution, as appropriate.
- 12. Can I make my views known to the Board without appealing?**
- Where an appeal has already been made, another person can become an “observer” and make submissions or observations on the appeal. A copy of the appeal can be seen at the planning authority’s office. The time limit for such submissions or observations is- (a) four weeks of receipt of the appeal by the Board (or the last appeal where more than one is made) or, (b) in a case where an Environmental Impact Statement has been requested and received by the Board, four weeks of the date the Board publishes notice of its receipt or, (c) where the Board requested the applicant to publish a further site or newspaper notice, four weeks of the date of publication of the notice. So, in the case of (a) above, if an appeal is received on Wednesday 2nd of a month, the last day for receipt of submissions or observations on the appeal by an “observer” is Tuesday 29th (not Wednesday 30th) of the same month. The Board’s website has a ready-reckoner to assist in calculating the last day for making a submission / observation. See also questions 28, 29 and 30 regarding time limits. Should the appeal (or all the appeals where there is more than one) be withdrawn by the person(s) who made it, the decision of the planning authority will stand and your submission will lapse.
- 13. How may I make my views known to the Board?**
- An “observer” should submit his/her submissions or observations in writing by: -
- sending them by **post** to: The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
 - **or**, delivering them to the Board’s offices. (Office hours are 9.15a.m. to 5.30p.m. on Monday to Friday except on public holidays and other days on which the offices are closed).
- 14. What must I include with my submissions or observations?**
- Your own name and address - which must be **clearly stated**. Where an agent makes the submissions or observations on your behalf, he/she must **state clearly** his/her own name and address **and** your name and address.
 - The subject matter of the submissions or observations – you must give sufficient details to enable the Board to readily identify the application/appeal e.g. a copy of the planning authority decision or the appeal reference number.
 - The full grounds of the submissions or observations and supporting material and arguments. The Board cannot take into consideration any further submissions, observations or other information submitted after the initial submissions or observations are submitted (except information specifically requested by the Board) and it cannot consider non-planning issues.
 - The correct fee (except in the case of certain bodies specified by the Board). Details of fees are available from the Board or your local planning authority.

15. If my appeal or observation is invalid, can I re-lodge the appeal or observation?

If you comply fully with ALL the requirements at the time you re-lodge the appeal or observation, then it will be accepted. The requirements are that the appeal or observation must be received within time (see question 3 or 12, as appropriate), be made correctly (see question 4 or 13) and must include all the information and documents (see question 5 or 14) when it is re-lodged. Even if a fee (correct or not) was lodged with the invalid appeal or observation, the full fee must always accompany the new appeal or observation.

Where the time limit has not expired for re-lodging a fresh appeal or observation, the Board does not guarantee that it will notify appellants or “observers” in sufficient time that would allow a fresh appeal or observation to be made within the statutory time limit.

16. Can I ask for an oral hearing?

Any party to the appeal (not an “observer”) may request an oral hearing provided the correct non-refundable fee is paid in addition to the appeal fee. The appellant must make the request within the period for lodging the appeal but, where a party to an appeal other than an appellant is sent a copy of an appeal, he/she may make the request within four weeks from the date the copy is sent to him/her.

If you request an oral hearing, you still must state your grounds of appeal in full and comply with the other legal requirements when lodging your appeal.

The Board has absolute discretion to hold an oral hearing with or without a request from a party and will generally only hold one where this will aid its understanding of a particularly complex case or where it considers that significant national or local issues are involved. The Board may also direct the holding of an oral hearing to determine whether an appeal is made with the sole intention of delaying development or of securing the payment of money, gifts, considerations or other inducement by any person.

17. What happens next?

The Board sends a copy of the appeal to the planning authority and, in the case of a third party appeal, to the developer. These have four weeks to submit their views. The Board cannot consider any views that are late and no party is allowed elaborate on his/her views in writing once they have been submitted to the Board.

18. What does the Board take into consideration when deciding an appeal?

Generally, the Board is required to consider the planning application, the subject of the appeal, *de novo*, (i.e. as if the application had been made to it in the first instance) and the EIS, if any. The Board will determine the application on the basis of the proper planning and sustainable development of the area and the effects, if any, the proposed development would have on the environment. The Board must have regard to such matters as the policies and objectives of the local development plan, Ministerial planning guidelines, regional planning guidelines, the National Spatial Strategy, the policies and objectives of the Government and the national interest. In addition, the Board must consider the grounds of appeal, the decision of the local planning authority, any submissions or observations made to the planning authority and/or the Board in relation to the application and the appeal, as appropriate, and the report and recommendation of the Board’s inspector on the appeal.

19. How does the Board ensure fair play for all?

Where the Board considers it appropriate in the interests of justice, it can ask any party, observer or any other person or body to make submissions or observations on any matter that has arisen in the appeal. This will allow the Board, for instance, to seek comment on any significant new matter arising in the appeal. The Board also has powers to require any party or observer to submit any document, information etc. which it considers necessary. The Board will specify a time limit (minimum 2 weeks) for submission of the invited material and this limit will be strictly enforced.

20. Can the Board consider matters which have not been raised in the appeal?

Yes. As stated at 18 above, the Board is generally required to consider the application *de novo*. Except in the circumstances as outlined in question 21 following, all the relevant planning issues relating to the application are considered by the Board in its determination of the appeal whether or not they were raised by the planning authority, other parties or any ‘observers’. As stated at 19 above, if a new issue arises the parties and observers will be given an opportunity to comment on these.

21. In what circumstances may the Board not consider the application *de novo*?

Where an appeal relates to conditions only which are attached to a decision of a planning authority to grant permission and there is no other appeal, the Board may generally use its discretionary powers not to consider the application *de novo*. Instead, it may issue directions to the planning authority to amend, remove or attach new conditions to the decision. Where it decides not to use its discretionary powers, the Board may either grant or refuse permission for the development even where conditions only are appealed. However, see answer 11(c) relating to Development and Supplementary Contribution Scheme conditions and special contributions where different provisions may apply.

22. Can the Board contravene the provisions of the local Development Plan?

Yes. The Board, while obliged to have regard to the provisions of a local development plan, may contravene its provisions in certain circumstances. In circumstances where the planning authority decides to refuse permission on the grounds that the proposed development materially contravenes the Development Plan, the Board may grant permission on appeal but only if it considers that –

- the proposed development is of strategic or national importance, or
- there are conflicting objectives in the Development Plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- permission should be granted having regard to regional planning guidelines for the area, Ministerial guidelines, Ministerial policy directives, the statutory obligations of any local authority in the area, and any relevant policy of the Government or any Minister of the Government, or
- permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Development Plan.

The Board can, of course, refuse permission for other reasons even where the proposed development would be in accordance with the provisions of the local Development Plan.

23. What is the time limit for deciding appeals?

The Board's statutory objective is to dispose of appeals within 18 weeks. However, where the Board does not consider it possible or appropriate to reach a decision within 18 weeks (e.g. because of delays arising from the holding of an oral hearing), it will inform the parties of the reasons for this and must say when it intends to make the decision.

24. What type of decision can the Board make and will I be informed of it?

Generally, a decision will be made either-

- to grant permission/outline permission with or without conditions, or
- to refuse permission/outline permission.

However, see question 21 above which refers to other types of decisions the Board may make. All parties and observers involved in the appeal will be notified of the decision by post. A copy of the Inspector's Report, the Board's Direction (e.g. whether to grant or refuse, what conditions, if any, should be attached to a permission, other instructions etc.), and the Board's decision order are posted on the Board's website at www.pleanala.ie. The reasons and considerations for the Board's decision will be included in the decision order and, in any case where the Board does not accept the Inspector's recommendation in relation to granting or refusing permission, the main reasons for not accepting it.

25. Is the Board's decision final?

Yes. Its validity may only be challenged by way of judicial review in the High Court within 8 weeks. The Court will not re-open the planning merits of the case and may only give leave to pursue the review process where it is satisfied that there are substantial grounds for contending that the Board's decision is invalid or ought to be quashed and that the person seeking the judicial review has a substantial interest in the matter.

26. Can the Board dismiss appeals?

Yes. The Board has discretion to dismiss an appeal where it is satisfied the appeal is vexatious, frivolous or without substance or foundation or where the appeal is made with the sole intention of delaying development or of securing the payment of money, gifts, considerations or other inducement by any persons. The Board can also declare a planning application or an appeal withdrawn where it is satisfied it has been abandoned.

27. Can I withdraw my appeal?

Yes. An appeal can be withdrawn by an appellant and the planning application can be withdrawn by the applicant at any time prior to the determination of the case by the Board. Where an appeal is withdrawn (or all the appeals where there is more than one), the original decision of the planning authority takes effect. Where the planning application is withdrawn by the applicant, no permission can be granted by the planning authority in relation to the application.

28. How strict are the time limits?

So that the Board can determine appeals generally within 18 weeks, all the time limits are very strict and the Board has no discretion to extend the dates. This applies to the lodging of appeals, submission of comments by parties, the making of submissions and observations to the Board by "observers" and others and, where invited by the Board, to additional submissions.

29. What if the offices of the Board are closed on the last day allowed for making an appeal or submission?

When the last date for receipt of an appeal or other material falls on a weekend, public holiday or other day when the offices of the Board are closed, the latest date for receipt will be the next day on which the offices of the Board are open.

30. What if the period for making an appeal or submission falls over Christmas or the New Year?

The period from 24th December to 1st January inclusive (i.e. 9 days) is excluded for the purposes of calculation of all periods of time in relation to planning appeals. Therefore, if the period for making an appeal falls between 24th December and 1st January (both dates inclusive), the last day for making the appeal is extended. So, for example, if the last day of the four-week period falls on 24th December, the last day for making an appeal is 2nd January, and if the last day of the four-week period falls on 29th December, the last day for making an appeal is 7th January.

The exclusion of the Christmas/New Year period also applies to any other matter in relation to an appeal where a time period is specified. So, if the last day of the period for making submissions or observations in relation to an appeal or of the 18-week statutory objective period within which the Board should decide an appeal falls within the Christmas/New Year period, the period is extended by an appropriate number of days.

31. Can the Board's documents be inspected and purchased?

Files on appeals can be inspected by members of the public 3 days after the appeals are determined by the Board. These files can be inspected free of charge at the Board's offices on weekdays between 10 a.m. - 12.30 p.m. and 2.30 p.m. - 4.30 p.m., except on public holidays and other days on which the offices are closed. Subject to copyright provisions, copies of documents on these files can be purchased at the Board's offices during these hours for the reasonable cost of copying the documents. The inspector's report and the Board's direction and decision may be viewed and downloaded from the Board's website. Further details concerning inspection and purchase of documents etc., are available from the Board and on its website, www.pleanala.ie

32. Can I apply to the Board for leave to appeal a decision of a planning authority? (See also answers to questions 2 and 3).

A person with an interest in land (e.g. a landowner/occupier) adjoining the application site who did not make submissions or observations to the planning authority in relation to the planning application may apply to the Board for leave to appeal the decision of the planning authority within four weeks of the decision of the authority to grant permission. The Board may grant leave to appeal where the person shows that the decision of the planning authority to grant permission differs materially from the application because of the conditions imposed and the conditions imposed will materially affect his/her enjoyment of the land or reduce the value of the land.

Like a planning appeal, the person seeking leave to appeal must state his/her name and address, the grounds on which he/she is basing the leave to appeal (see above), a description of his/her interest in the land and the correct fee.

Where a person is granted leave to appeal, the planning appeal must be received by the Board within two weeks of him/her receiving notification of leave to appeal and must otherwise comply with the requirements for lodging the planning appeal (see questions 4 and 5) including a further fee. Details of fees are available from the Board or your local planning authority.

33. Can I refer the planning authority's refusal to deal with a second planning application to the Board?

Where a decision of a planning authority in relation to a planning application is on appeal to the Board, a second application for the same development or development of the same description may not be made to the planning authority. Where a dispute arises as to whether an application is for the same development or development of the same description, the matter may be referred to the Board for a determination.

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