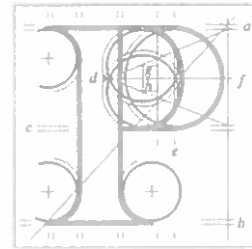


**Our Ref:** 07.VC0105  
**P.A.Reg.Ref:**

**Your Ref:**



An  
Bord  
Pleanála

Ken Fitzgerald  
Malachy Walsh and Partners  
Reen Point  
Blennerville  
Tralee  
Co. Kerry

2nd August 2017

**Re:**  
Amendments to layout of the Cloosh Wind Farm 110kV electrical  
substation, Finnaun Townland,  
Co. Galway

Dear Sir,

Please be advised that following consideration of the issues raised during the above consultation process and having regard to the scale and nature of the proposed development An Bord Pleanála has decided that the proposed development does not come within the scope of section 182A of the Planning and Development Act, 2000, as amended. Accordingly, an application for planning consent for the proposed development should be made to the local planning authority for the area in accordance with the provisions of section 34 of the Planning and Development Act, 2000, as amended.

In accordance with section 146(3) of the Planning and Development Act, 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. In addition, the Board will also make available the Board Direction on the decision on its website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

In accordance with the fees payable to the Board and where not more than one pre-application meeting is held in the determination of a case, a refund of €3,500 is payable to the person who submitted the pre-application consultation fee. As a meeting was not required, a refund of €3,500 will be sent to you in due course.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Kieran Somers  
Executive Officer  
Direct Line:01-8737107

Encls.

VC13a.LTR

Tel (01) 858 8100  
LoCall 1890 275 175  
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Dublin 1  
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## **Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended**

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, [www.citizensinformation.ie](http://www.citizensinformation.ie).

**Disclaimer:** The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.