



An
Coimisiún
Pleanála

Leave to Appeal: Requesting permission from the Commission to make an appeal

July 2020

Plain
English
Approved by NALA



About this guide

This guide is to apply for **leave to appeal**, and to make a **planning appeal** after leave to appeal has been granted.

The guide is in two parts. Part 1 gives you information on how to apply to An Bord Pleanála for leave to appeal. You can send us your application using the Leave to Appeal application form. You can also apply for leave to appeal by writing to us.

Part 2 gives you information on how to make a planning appeal if you have been granted leave to appeal. You can send us your planning appeal using the Planning Appeal Form. You can find it on our website www.pleanala.ie or by contacting our office. You can also make an appeal by writing to us.

This guide is published to provide general information, assistance and guidance only. It is not a legal interpretation of the legislation. Readers must follow the relevant statutory provision to their own particular circumstances and, in doing so, should obtain their own expert advice if necessary.

Data Protection

An Bord Pleanála uses your personal data only to provide our services and to fulfil our legal duties. The personal data you supply will be circulated to other relevant parties and made available in the public domain about any matter before An Bord Pleanála.

To view our full policy statements on Data Protection, please go to www.pleanala.ie.

The National Adult Literacy Agency (NALA)
has awarded this document its Plain English Mark.



Contents

Part 1

Applying for Leave to Appeal..... 9

What is leave to appeal and who can make an application? 10

Making a Leave to Appeal application..... 11

How much time do I have to make an application? 11

How can I pay for my application?..... 12

What do I include in my Leave to Appeal application? 12

Can I request an oral hearing with an application?..... 13

Can I get a receipt if I deliver my application in person? 14

After you make your Leave to Appeal application 15

Have I made a valid or invalid application? 15

What do I need to do next if my application is valid? 15

What happens if my application is invalid? 15

Why is my application invalid? 15

What does An Bord Pleanála do next?..... 16

Can I withdraw my application?..... 16

Frequently asked questions 18

Part 2

Making an appeal after the Board has granted leave to appeal 20

The Board has granted me leave to appeal. What happens next? 21

Making an appeal after the Board has granted leave to appeal 22

How will I be told about the Board's decision to grant the
Leave to Appeal application? 22

How much time do I have to make an appeal? 22

How do I make an appeal?..... 23

How can I pay for my appeal?..... 23

Where do I send or deliver my appeal?..... 25

Can I get a receipt if I deliver my appeal in person?..... 25

Oral hearings 26

After you make your appeal	27
Have I made a valid or invalid appeal?.....	27
What do I need to do next if my appeal is valid?	27
What happens if my appeal is invalid?	27
Why is my appeal invalid?	28
What does An Bord Pleanála do next?.....	28
Will my Leave to Appeal application be considered during the appeal?.....	29
Can I withdraw my appeal?	29
The applicant has withdrawn their application. Will the Board still consider my appeal?	29
Can the Board dismiss an appeal?.....	30
Frequently asked questions	31
Legislation	33
Contact us.....	34

Terms

Some terms we use in this guide are:

Act	A law that has been passed by the Oireachtas (parliament) and approved by the President.
Adjoining land	Bordering; be next to and joined with.
Agent	A person who acts on your behalf in an appeal, application or referral.
Appeal	A review of the original decision on a planning application made by a planning authority.
Appellant	An individual or organisation who makes an appeal. (See also First Party , Third Party .)
Applicant	An individual or organisation who makes a planning application to a planning authority. (See also First Party .)
Board	The Board of An Bord Pleanála.
Enjoyment of land	Examples include: Benefit from land; use of land.
First party	The person who applies for planning permission for a proposed development. (See also Applicant .)
Inspector	A technical member of staff who makes site inspections, prepares a report on the planning case and makes a recommendation to the Board to grant or refuse permission.

Invalid	Does not meet all of the statutory requirements needed by law and regulations to be considered a case.
Leave to appeal	Requesting the permission of the Board to make an appeal when all of the four following reasons apply: 1. You did not make a submission to the planning authority on a planning application. 2. The planning authority has granted permission to that planning application. In the grant of permission, the planning authority has attached a condition or conditions that will change part of the proposed development from what was originally proposed in the planning application. 3. Due to the condition or conditions now attached to the grant of permission, the proposed development will impact land which: (a) you have an interest in; and (b) is adjoining (next to or joined with) the proposed development site 4. The impact is that it may: (a) affect your enjoyment of the land you have an interest in, or (b) reduce the value of the land you have an interest in, or (c) both affect your enjoyment of the land and reduce its value.
Observation	A document submitted by an Observer .
Observer	Any person, other than the applicant, planning authority or an appellant, who comments on an appeal. (See also Submission .)

Oral hearing	An oral hearing is a public meeting to allow relevant issues in a case to be discussed and examined.
Planning authority	The local authority – county council, city council, or county and city council – responsible for planning in its area.
Regulations	A law or rules made by an Act or, sometimes, a government minister
Statutory	Something that is decided, set up or controlled by statute law. Statute law is a law passed by parliament.
Statutory requirements	Requirements needed by law for a case to be valid.
Submission	A document on appeals or applications which may include supporting materials such as photographs, plans, drawings and technical guidance. (The document can be typed or handwritten.)
Third party	A person appealing the decision of a planning authority on a proposed development, other than the person who made the original planning application. (See also Appellant .)
Valid	Meets all statutory requirements needed by law and regulations to be considered as a case by us.
We, our, us	An Bord Pleanála.
You	You as a person, company, group, organisation or state authority.

Part 1

Applying for Leave to Appeal

What is leave to appeal and who can make an application?

Leave to appeal is a process where, if you are a person with an interest in **adjoining land**, you can ask the Board to give you permission to make an appeal when **all of** the four following reasons apply:

1. You did not make a submission to the planning authority on a planning application.
2. The planning authority has granted permission to that planning application. In the grant of permission, the planning authority has attached a condition or conditions that will change part of the proposed development from what was originally proposed in the planning application.
3. Due to the condition or conditions now attached to the grant of permission, the proposed development will impact land which:
 - (a) you have an interest in; **and**
 - (b) is adjoining (next to or joined with) the proposed development site
4. The impact is that it may:
 - (a) affect your enjoyment of the land you have an interest in, **or**
 - (b) reduce the value of the land you have an interest in, **or**
 - (c) both affect your enjoyment of the land and reduce its value.

The Board can **only** grant the Leave to Appeal application where you have shown all of the **four** things above.

A large number of Leave to Appeal applications fail because the person applying for leave to appeal cannot show that they meet all the requirements.

Making a Leave to Appeal application

How much time do I have to make an application?

You **must** make your application **within four weeks** beginning on the date the planning authority makes its decision. This is a **strict time limit**. The decision date is the **date that the chief executive's order is signed**. This document will be available from the planning authority's website. We must have your application by 5.30pm on the final day.

Example

The planning authority makes its decision today, Wednesday 2 June.

Today						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	1	2
3	4	5	6	7	8	9

You have four weeks to make your Leave to Appeal application before the deadline.

Your last date to make an application is on or before 5.30pm on **Tuesday 29 June**.

There are different rules about time limits between December 24 and January 1 (inclusive) which can affect the last date to make an application.

How much does a Leave to Appeal application cost?

A Leave to Appeal application costs €110.

How can I pay for my application?

There are many ways you can pay a fee to An Bord Pleanála.

	In person at our reception	In the post
Cash	✓ Accepted	We advise you not to send cash in the post.
Debit and Credit Cards*	✓ Accepted	✗ Not accepted
Cheques	✓ Accepted	✓ Accepted
Bankers Drafts	✓ Accepted	✓ Accepted
Postal Orders	✓ Accepted	✓ Accepted

* Please note we do not accept debit or credit card payments over the telephone.

You can find more details about Fees and Charges and how you can pay fees on our website.

What do I include in my Leave to Appeal application?

You should carefully prepare your application. When you have made your application, you **cannot** make any further submissions unless we specifically ask you for them. Please note that An Bord Pleanála **cannot** consider non-planning issues.



Important Note: If your Leave to Appeal application is successful, you may want to make copies of the documents you used in your application again for the appeal.

To make a complete and valid Leave to Appeal application:

✓	You must put your application in writing (either typed or handwritten).
✓	You must clearly state your own name and address. If a planning agent is acting for you, the agent must clearly state their own name and address as well as your name and address.
✓	You must give us enough details to allow us to easily identify the land or development which has been granted planning permission by the planning authority. Examples of the details we accept are: • a copy of the planning authority decision, or • the name of the planning authority and the planning register reference number (for example: Ballytown City Council, 23719/18).
✓	You should describe your interest in the land. For example, you can give us a map showing your land and the proposed development site marked on it.
✓	You must provide us with your planning grounds (reasons and arguments) why you should be granted leave to appeal.
✓	You must pay the correct fee of €110.
✓	You must make your application on time.

Can I request an oral hearing with an application?

No. You cannot request an oral hearing with an application.

Where do I send or deliver my Leave to Appeal application?

You must:

- post it to:

The Secretary, An Bord Pleanála, 64 Marlborough Street,
Dublin 1, D01 V902



or

- deliver it in person to a member of An Bord Pleanála staff at our office in Marlborough Street (address above) during office hours – Monday to Friday from 9.15am to 5.30pm. Please note that the security staff in our office cannot accept applications.



Remember, do **not** place your application in the letterbox of our office and **do not** email it to us as your application will be **invalid**.

We are closed on weekends, public holidays and other publicised days such as Christmas Day and Good Friday.

Can I get a receipt if I deliver my application in person?

Yes. If you deliver your application in person to our office, you can ask for a **receipt** which says that we have received your application. Once your application is handed to a member of An Bord Pleanála staff, we cannot return it, nor can we make a photocopy of your documents with our date stamp.

Will I receive a receipt if I send my application by post?

Yes, we will send you a receipt in the post.

After you make your Leave to Appeal application

Have I made a valid or invalid application?

After we receive your application, we will check that it meets the statutory requirements for it to be a valid application. If your application does not meet these requirements, it is invalid. Next, we will send you a letter to tell you that we have:

- received your application, and
- found your application to be valid **or** invalid.

What do I need to do next if my application is valid?

If your application is valid, you do not need to do anything else at this point. If we write to you during the application process, please follow the instructions or advice in the letter. If you need help following the instructions or advice, you can contact us. Please quote the application case reference number on the letter, so we can identify your case.

What happens if my application is invalid?

If your application is invalid, we will return all your documents to you and we will refund your fee by cheque. You can re-submit the application only if you can meet all the statutory requirements fully.

Why is my application invalid?

Some reasons why applications are invalid are:

- the application does not fully meet all the statutory requirements as described in this guide,
- the application was posted in the letterbox of our office or emailed to us. It must be posted to our office or be delivered in person to a member of An Bord Pleanála staff at our office.

What does An Bord Pleanála do next?

Within one week of receiving your valid Leave to Appeal application, we write to the planning authority to ask for copies of:

- the planning application, maps, plans and any other documentation that they received,
- any planning authority report prepared on the application,
- the planning authority's decision, and
- the notice the planning authority sent to the applicant about its decision.

The planning authority should send us this information within one week of receiving our request. On receiving the planning application information and documents, our staff prepares the case for the Board. The Board then makes a decision whether to grant or refuse leave to appeal.

When the Board has made its decision to grant or refuse leave to appeal, we send you a letter by registered post and a copy of the Board Order to let you know the decision within three working days of the decision being made. We also write to the planning authority to inform it of the Board's decision. More information about the Board's decision is available on our website.

What is the time limit for deciding a Leave to Appeal application?

The Board must make a decision on a Leave to Appeal application within four weeks of us receiving it.

Can I withdraw my application?

Yes. You can withdraw your application any time before a decision is made. You **must** write to us and state that you wish to withdraw your application. We cannot refund your fee.

The Board has granted me leave to appeal. What do I need to do next?

If the Board has granted you leave to appeal, please go to Part 2 of this guide.

The Board has refused me leave to appeal. What can I do next?

If someone else has made a planning appeal about the same proposed development, you may be able to take part in that appeal by making an **observation**.

Further information on observations is available in our guide “Making an observation” which is available on our website or by contacting us.

Frequently asked questions

Can I make the application online?

No. It is **not** currently possible to make an application online.

Can I pay the fee over the telephone by debit or credit card?

No. We cannot accept fee payments over the telephone.

Can I email or fax an application and send the fee in the post?

No. To make a valid application, you need to post or hand deliver all the documents required and the appropriate fee. They **must** arrive together before the close of the four-week period.

Can I make an anonymous application?

No. You must provide your name and full address when making your application.

Can you accept a late application?

No. By law, An Bord Pleanála cannot accept a late application for any reason.

What if An Bord Pleanála's office is closed on the last day allowed for making an application?

If the last date for us to receive an application is on a weekend, public holiday or other day when our office is closed, we can receive your application by 5.30pm on the next working day that our office is open. More details are available on our website.

Can I get proof that I made an application?

Yes. If you visit our office to deliver your application in person, we can give you a receipt that we have received it. If you send your application by post, we will post you a receipt. A receipt of your application **does not** confirm that your application is valid. We do not provide a photocopy of your application documents with our date stamp.

Why is the application invalid even though I posted it on time?

Your application is invalid, as, even though you may have posted it on time, we did not receive it within four weeks from the date of the decision of the planning authority. There are **no** exceptions to this rule.

What happens if my application is invalid?

If your application is invalid, we will return your documents and fee.

An Bord Pleanála has returned my invalid application. Can I re-submit the application?

Yes, but only if you can fully meet **all** the requirements as described in this guide; then you may apply again.

Can I be sued for what I write in my application?

Yes, you could be sued. You should refer only to relevant planning issues. Our notice on defamation explains more. Defamation is when a person communicates false statements about another person that injure that person's reputation.

Can I submit additional information after I have made my application?

No. You cannot give us additional information after you have made your application. Occasionally, we may ask you to give us more information or to respond to the submissions made. If we do, you should reply within the time we will specify.

Part 2

**Making an appeal after
the Board has granted leave to appeal**

The Board has granted me leave to appeal. What happens next?

To help you make a valid appeal, follow the information in this part of the guide.

Making an appeal after the Board has granted leave to appeal

How will I be told about the Board's decision to grant the Leave to Appeal application?

We will send you a notification letter by registered post with the Board's decision to grant your leave to appeal.

How much time do I have to make an appeal?

You **must** make your appeal **within two weeks** beginning on the date you received the notification letter. We will have sent you this letter by registered post with the Board's decision. We must have your appeal by 5.30pm on the final day to make an appeal.

You want to make a planning appeal after the Board has granted leave to appeal.

You have two weeks to make your appeal beginning on the date you received the notification letter.

Example

You received the notification letter today, Tuesday 2 December. Your last date to make an appeal is on or before 5.30pm on **Monday 15 December** (two weeks later).

There are different rules about time limits between December 24 and January 1 (inclusive) which can affect the last date to make an appeal.

How do I make an appeal?

You must make your appeal in writing, and post or deliver it in person to us. It is **not** possible to make an appeal online. There is a Planning Appeal Form which you can complete. The form can be typed or handwritten. However, you do **not** have to complete this form to make an appeal, and you can either use the form **or** write to us.

How much does the appeal cost?

Your appeal costs €110.

How can I pay for my appeal?

There are many ways you can pay a fee to An Bord Pleanála.

	In person at our reception	In the post
Cash	✓ Accepted	We advise you not to send cash in the post.
Debit and Credit Cards*	✓ Accepted	✗ Not accepted
Cheques	✓ Accepted	✓ Accepted
Bankers Drafts	✓ Accepted	✓ Accepted
Postal Orders	✓ Accepted	✓ Accepted

* Please note we do not accept debit or credit card payments over the telephone.

You can find more details about Fees and Charges and how you can pay fees on our website.

What do I include in my appeal?

You should carefully prepare your grounds of appeal (reasons and arguments) and any documents you wish to include. Even though you may consider that you are

repeating the information you gave us with your Leave to Appeal application, you must give us all the required information.

When you have made your appeal, you **cannot** make any further submissions unless we specifically ask you for them. Please note that An Bord Pleanála **cannot** consider non-planning issues.

To make a complete and valid appeal:

✓	You must put your appeal in writing (either typed or handwritten).
✓	You must clearly state your own name and address. If an agent is making the appeal on your behalf, the agent must clearly state their own name and address as well as your name and address.
✓	You must give us enough details to allow us to easily identify the application you wish to appeal. Examples of the details we accept are: • the An Bord Pleanála Leave to Appeal case number, or • a copy of the An Bord Pleanála Board Order.
✓	You must provide us with: • your planning grounds of appeal (reasons and arguments) for wanting the planning authority's decision changed, and • any items you wish to support your grounds of appeal.
✓	You must pay the correct fee of €110.
✓	You must make your appeal within two weeks beginning on the date you receive your notification letter.

Where do I send or deliver my appeal?

You must:

- post it to:

The Secretary, An Bord Pleanála, 64 Marlborough Street,
Dublin 1, D01 V902



or

- deliver it in person to a member of An Bord Pleanála staff at our office in Marlborough Street (address above) during office hours – Monday to Friday from 9.15am to 5.30pm. Please note that the security staff in our office cannot accept appeals.



Remember, do **not** place your appeal in the letterbox of our office and **do not** email it to us as your appeal will be **invalid**.

We are closed on weekends, public holidays and other publicised days such as Christmas Day and Good Friday.

Can I get a receipt if I deliver my appeal in person?

Yes. If you deliver your appeal in person to our office, you can ask for a **receipt** which says that we have received your appeal. Once your appeal is handed to a member of An Bord Pleanála staff, we cannot return it nor can we make a photocopy of your documents with our date stamp.

Will I receive a receipt if I send my appeal by post?

Yes, we will send you a receipt in the post.

Oral hearings

What is an oral hearing?

An oral hearing is a meeting and is sometimes held to help our inspector gather more information from participants. The Board will generally only hold an oral hearing to help it understand a particularly complex case **or** if the case involves significant national or local issues. The Board has the power to hold an oral hearing with or without a request for one.

How do I ask for an oral hearing?

To ask for an oral hearing, you need to make an oral hearing request. To make a request you **must**:

- tick the box that says “Yes, I want to request an oral hearing” on the Planning Appeal Form, **or**
- write to us and ask for one.

Please note, if you request an oral hearing, you will have to **pay an additional non-refundable fee** of €50. Further information on how to make this request is available on our website or by contacting us.

After you make your appeal

Have I made a valid or invalid appeal?

After we receive your appeal, we will check that it meets the statutory requirements to be a valid appeal. If your appeal does not meet these requirements, it is invalid.

Next, we will send you a letter to tell you that we have:

- received your appeal, and
- found your appeal to be valid **or** invalid.

What do I need to do next if my appeal is valid?

If your appeal is valid, you do not need to do anything else at this point. During the appeal process, we may send you a letter about:

- comments or observations you may be invited to make on something we have received,
- the Board's decision to hold an oral hearing,
- details about an oral hearing,
- when the Board hopes to make a decision if it is not possible within the 14 weeks' time period.

If we write to you, please follow the instructions or advice in the letter. If you need help following the instructions or advice, you can contact us. Please quote the appeal case reference number on the letter, so we can identify your case.

What happens if my appeal is invalid?

If your appeal is invalid, we will return all your documents to you. We will refund your fee by cheque. You can re-submit the appeal only if you can fully meet **all** the statutory requirements.

Why is my appeal invalid?

Some reasons why appeals are invalid are:

- the appeal does not fully meet all the statutory requirements as described in this guide,
- the appeal was placed in the letterbox of our office, or emailed to us.

Further details about invalid appeals are available on our website.

What does An Bord Pleanála do next?

An Bord Pleanála sends a copy of your appeal to:

- the planning authority,
- the applicant, and
- any other appellant involved in the appeal.

Participants have **four weeks** from the date we write our letter to submit their comments if they so wish. We cannot consider any comments that are late. We may write to case participants to ask for further submissions or information.

An inspector will consider your appeal and all documentation about the appeal. They will usually visit the site to gather more information and take photographs for their report. We may contact you to organise a time for the inspector to visit the site; however, an inspector may visit unannounced if they are in the area.

After the site visit, the inspector prepares a report and recommendation for the Board. The Board will then make a decision based on all the documentation on the case.

What is the time limit for deciding appeals where the Board has given leave to appeal?

The Board has a statutory objective to try to decide appeals within 14 weeks in this situation. The 14-week period includes any request periods mentioned previously. For example, if we ask you to comment on a submission and ask you to reply within four weeks, this four-week period is part of the overall 14-week appeal period.

If the Board cannot make a decision within 14 weeks, we will write to participants in the appeal to update them.

When the Board makes a decision, we will send you a letter and a copy of the Board Order to let you know the decision. More information about the Board's decision is available on our website.

Will my Leave to Appeal application be considered during the appeal?

No. The Leave to Appeal application is a separate case from the appeal case. When making its decision on your appeal, the Board will consider your grounds of appeal and all other documents on the appeal case file.

Can I withdraw my appeal?

Yes, you can withdraw your appeal any time before a decision is made. You **must** write to us and state that you wish to withdraw your appeal. We cannot refund your fee.

The applicant has withdrawn their application. Will the Board still consider my appeal?

No. If the applicant withdraws their application, there is no longer a valid appeal.

Can the Board dismiss an appeal?

Yes. The Board can dismiss an appeal where it is satisfied that the appeal is:

- **vexatious**: intended only to annoy or disturb,
- **frivolous**: lacking in seriousness,
- **without substance or foundation**,
- **made just to delay** the development,
- **made to secure the payment** of money, gifts and considerations by anybody,
- or
- **made by a person who cannot be identified** (in the Board's opinion).

Frequently asked questions

Can I make the appeal online?

No. It is **not** currently possible to make an appeal online.

Can I pay the fee over the telephone by debit or credit card?

No. We cannot accept fee payments over the telephone.

Can I email or fax an appeal and send the fee in the post?

No. To make a valid appeal, you need to send all the documents required and the appropriate fee. They **must** arrive together before the close of the two-week period.

Can I make an anonymous appeal?

No. You must provide your name and full address when making your appeal.

Can you accept a late appeal?

No. By law, An Bord Pleanála cannot accept a late appeal for any reason.

What if An Bord Pleanála's office is closed on the last day allowed for making an appeal?

If the last date for us to receive an appeal is on a weekend, public holiday or other day when our office is closed, we can receive your appeal by 5.30pm on the next working day that our office is open. More details are available on our website.

Can I get proof that I made an appeal?

Yes. If you visit our office to deliver your appeal in person, we can give you a receipt that we have received it. This receipt **does not** confirm that your appeal is valid. We do not provide a photocopy of your appeal documents with our date stamp.

Why is the appeal invalid even though I posted it on time?

Your appeal is invalid as, even though you may have posted it on time, we did not receive it within two weeks from the date you received the notification letter.

What happens if my appeal is invalid?

If your appeal is invalid, we will return your documents and fee.

An Bord Pleanála has returned my invalid appeal. Can I re-submit the appeal?

Yes, but only if you can fully meet **all** the requirements as described in this guide; then you may appeal again.

Can I make my views known without appealing?

Yes. You may be able to become an **observer** where a valid appeal has already been made against the decision of a planning authority. Our making an observation guide provides further details on observations.

Can I be sued for what I write in my appeal?

Yes, you could be sued. You should refer only to relevant planning issues. Our notice on defamation explains more. Defamation is when a person communicates false statements about another person that injure that person's reputation.

Can I submit additional information after I have made my appeal?

No. You cannot give us additional information after you have made your appeal. Occasionally, we may ask you to give us more information or to respond to the submissions made. If we do, you should reply within the time we will specify.

Legislation

The laws and regulations referred to in this document are:

- Planning and Developments Act 2000, as amended
- Planning and Development Regulations 2001, as amended

Contact us

If you want a copy of this document in a different format, or if you need more information, please contact An Bord Pleanála.

Visit our offices at:	An Bord Pleanála 64 Marlborough Street Dublin 1 D01 V902
Write to us at:	
Telephone us on:	(01) 858 8100 or LoCall: 1890 275 175
Email us at:	bord@pleanala.ie
Visit our website:	www.pleanala.ie
Send us a fax on:	(01) 872 2684

This edition: July 2020.