

An
Bord
Pleanála

Dispensation appeals Relaxation appeals

April 2019



About this guide

If you applied to your local building control authority for a:

- **Dispensation from usual requirements of Building Regulations,**
- **Relaxation from usual requirements of Building Regulations**

and you are unhappy with the decision to refuse or grant subject to conditions, you can appeal the decision to An Bord Pleanála. This guide will help you make your appeal.

Advice on how to make the initial application the building control authority should be sought from the building control authority itself.

We have tried to make this guide as accurate and helpful as possible, however it is not legal advice.

Data Protection

An Bord Pleanála uses your personal data only to provide our services as set out under relevant legislation.

To provide these services, we are required to collect certain personal data such as names, addresses and site descriptions. We will use any extra personal data that you voluntarily supply to meet statutory requirements to carry out our duties and functions.

You should note that 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. This use complies with the General Data Protection Regulations (GDPR).

Contents

About this guide	2
Contents.....	3
Terms we use in this guide.....	4
Background information	6
Making an appeal.....	7
Who can appeal?.....	7
What is the time limit for making an appeal?	7
What do I include in my appeal?.....	8
How much does an appeal cost?.....	9
How can I pay for my appeal?	9
Where do I send or deliver my appeal?	9
Can I get a receipt if I deliver my appeal in person?	10
Will I receive a receipt if I send my appeal by post?	10
After you make your appeal	11
Will the building control authority be told of the appeal?	11
Does the Inspector make a site visit?	11
Will a meeting be held on the case?	11
Does the Board have the power to dismiss or cancel an appeal?	11
The decision process	12
How does the Board decide on the appeal?	12
How long does it take the Board to make a decision?	12
How does the Board make its decision?.....	12
Will the Board tell me why it decides for or against my appeal?	13
When does the Board's decision come into effect?	13
Frequently asked questions	14
Legislation	16
Contact us.....	16

Terms we use in this guide

Act	A law that has been passed by the Oireachtas (parliament) and approved by the President.
Agent	A person who acts on your behalf in an appeal, application or referral.
Appeal (building control)	A review of the original decision on an application made by a building control authority to either refuse or to grant subject to conditions.
Appellant	An individual or organisation who makes an appeal.
Applicant	An individual or organisation who makes an application to a building control authority.
Board	The Board of An Bord Pleanála.
Building control authority	The local authority – county council, city council or city and county council– responsible for building control in its area.
Dispensation (building control)	Exempt from or not required to follow usual requirements of the Building Regulations.
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 the statutory requirements needed by law and regulations to be considered a case.
Regulations	A law or rules made by an Act or sometimes a Government minister.
Relaxation (building control)	Reduction or lessening of the usual requirements of the Building Regulations.
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.)
Valid	Meets all statutory requirements needed by law and regulations to be considered as a case.
We, our, us	An Bord Pleanála.
You	You as a person, company, group, organisation or State authority

Background information

Local councils are responsible for making sure that buildings are safe to use. This is set out in the Building Control Acts and the Building Control Regulations. When county councils, city councils or city and county councils act under this legislation, they are called **building control authorities**. The law gives the building control authorities certain responsibilities and certain powers to regulate the safety of buildings.

The Building Control Acts allows a building control authority to grant a **dispensation** from any requirement of the Building Regulations for buildings or works. The building control authority also has the power to grant a **relaxation** of any requirement of the Building Regulations.



It is important to note that only the requirements of the Building Regulations may be granted dispensation or relaxation. Guidance given in Technical Guidance Documents may **not** otherwise be dispensed with or relaxed.

Information about how to apply for these dispensations or relaxations is available from your building control authority.

If you are dissatisfied with the decision of a building control authority on an application for a dispensation from or relaxation of Building Regulations requirements, you can appeal the decision to An Bord Pleanála.

Making an appeal

Who can appeal?

The person or organisation who applied for a dispensation from or relaxation of the Building Regulations is called the applicant or first party. An applicant can appeal to An Bord Pleanála if they would like the Board to review:

- a decision to refuse, or
- conditions attached to the dispensation or relaxation

Only the applicant or their agent can appeal to An Bord Pleanála, and this is called a first party appeal. This is different to planning appeals, which permit first parties and other persons (third parties) to make appeals.

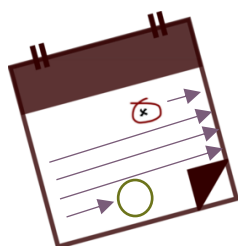
What is the time limit for making an appeal?

There is a **strict time limit** for making an appeal.

- You must make your appeal within a period of one month beginning on the date that the building control authority makes the decision on the application. This is different to planning appeals. The decision date is the date that the order is signed. This document may have been sent to you or will be available on the building control authority's website.
- We must have your appeal by 5.30pm on the final day allowed to make an appeal. If you do not make your appeal within this time period, it will be deemed to be invalid.

Example

The building control authority makes its decision Wednesday 2 November.



You have one month to make your appeal before the deadline.

Your last date to make an appeal is before 5.30pm on **Tuesday 1 December** (one month later).

What do I include in my appeal?

You should carefully prepare your grounds of appeal (reasons and arguments) and any items you wish to include. When you have made your appeal, you **cannot** make any further submissions unless we specifically ask you for them.

To make a valid appeal you must include the following:

✓	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 submission on your behalf, the agent must clearly state their name and address as well your name and address.
✓	You must give us enough details to allow us to easily identify the application you want to appeal. Examples of the details we accept are: 1. Your name. 2. Building control authority's register reference number for the application. 3. Description and location of building, works or change of use. 4. Name of building control authority. 5. Date of decision.
✓	• You must provide us with all of your detailed reasons and arguments for wanting the building control authority's decision changed. These are called the grounds of appeal.
✓	• Include any items that you think supports your appeal which would include technical guidance relied on to support your appeal.
✓	• You must pay the correct fee.
✓	• You must be on time and be within one month from the date of the building control authority's decision.

How much does an appeal cost?

The fee for this type of appeal is €500. You **must** make sure that the correct fee is included with the appeal.

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

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

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 to a member of An Bord Pleanála staff at our office during office hours - Monday to Friday from 9.15 am to 5.30 pm. Please note that the security staff in our office cannot accept appeals.





Remember, do **not** place your appeal in the letterbox of our office or **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. When 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.

After you make your appeal

Will the building control authority be told of the appeal?

Yes, the building control authority will be told about the appeal and they will also be given the opportunity to comment on your appeal.

Does the Inspector make a site visit?

No. An inspector does not normally need to make a site visit in these cases and will rely on the documents on the case file to prepare their report and recommendation to the Board. However, occasionally the Inspector may decide it is necessary to make a site visit and if this is the case we may contact you to make arrangements.

Will a meeting be held on the case?

No. A meeting is not normally necessary in these cases. A meeting will normally only be held where the Board considers that it would assist them to understand the technical issues arising in the case and would help the Board to make a decision on your appeal.

Does the Board have the power to dismiss or cancel an appeal?

The Building Control Regulations (Article 37) gives An Bord Pleanála the power to dismiss an appeal in two situations.

- When the Board considers the grounds of appeal, the Board decides that the appeal is vexatious, frivolous or without substance or foundation.
- When the Board considers the nature of the appeal and any previous decisions by a building control authority or An Bord Pleanála, the Board is satisfied that in the particular circumstances, the appeal should not be considered.

The decision process

How does the Board decide on the appeal?

When the Board receives an appeal on a building control authority decision, it will look at the whole case again from the start as if the application was being made for the first time.

However, if the Board receives an appeal about one or more conditions attached to a building control authority decision, it can review the appeal and decide to consider only the conditions rather than considering the whole case from the beginning or first principles. If the Board decides to do this, it will make a decision on the condition or conditions. It can also direct the building control authority to attach, amend or delete conditions including a condition or conditions which were not the subject matter of the appeal.

How long does it take the Board to make a decision?

The Building Control Regulations state that the Board should make a decision on an appeal within four months. If we do not consider it possible or appropriate to give a decision within four months in a particular case, we will notify all participants concerned and indicate when the Board will give its decision.



Remember, by law no building can be opened, operated or occupied while you are waiting for a decision on an appeal and until it has a statutory certificate of compliance. The building control authorities keep a register of building control activity for their areas.

How does the Board make its decision?

On receiving the inspector's report and recommendation on the case, the file will be forwarded to the Board for a decision. The Board's decision will be based on the

submissions and documents provided with the appeal, technical guidance and will also consider the report and recommendations of the reporting inspector.

Will the Board tell me why it decides for or against my appeal?

Yes. The Board will provide its reasons and considerations which explain how it arrived at the appeal decision. We will write to all the participants in the appeal to inform them of the Board's decision.

The Board Order containing the decision, including the reasons and considerations, together with the Board Direction and Inspector's Report will normally be placed on the Board's website. The case file can be viewed within 3 days after the Board's decision through our 'Viewing a decided case: Public Access service'.

When does the Board's decision come into effect?

On the day the Board makes a decision, the building control authority's decision is changed by the Board's decision.

Frequently asked questions

Can I make the appeal online?

No. It is **not** currently possible to make the 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, and they must arrive together before the close of the 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 your appeal. This receipt **does not** confirm that your appeal is valid. Unfortunately, we cannot 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 you may have posted it on time but we did not receive it within one month from the date of the building control authority's decision.

What happens if my appeal is invalid?

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

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 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.

How can I find out if someone has appealed a decision?

You can use the search facility on our website to check if an appeal has been received for a decision in which you are interested. We add new appeals to the website each Wednesday. This can be a day or two later around public holidays and Christmas.

Legislation

The laws and regulations referred to in this document are:

- Building Control Acts 1990 to 2014, as amended,
- Building Control Regulations 1997 to 2018, as amended, and
- Building Regulations 1997 to 2017, as amended.

Contact us

If you require this document in an alternative format or if you need more information, please contact An Bord Pleanála.

Visit our offices at:	An Bord Pleanála
Write to us at:	64 Marlborough Street Dublin 1 D01 V902
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: April 2019.