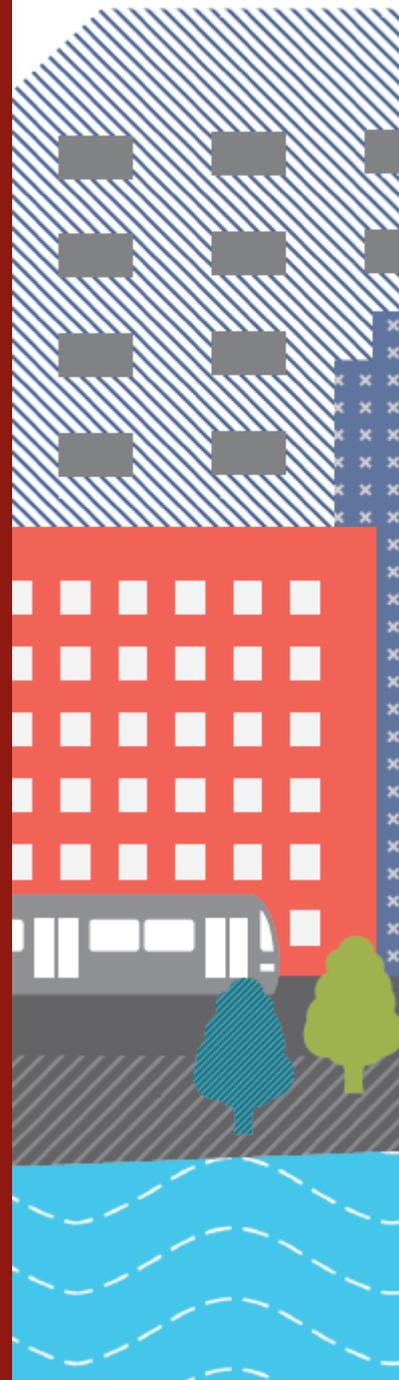


An
Bord
Pleanála

Strategic Infrastructure Development

February 2021



About this guide

This guide provides information on what is strategic infrastructure development and the process. If you want to make an observation on a current strategic infrastructure development case, you can read our Making an observation on a strategic infrastructure development application guide.

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.

Contents

| | |
|-----------------------------------------------------------------------------------------|----|
| About this guide | 2 |
| Contents | 3 |
| Terms | 5 |
| What is Strategic Infrastructure Development? | 9 |
| What are the types of strategic infrastructure development? | 9 |
| Steps in the strategic infrastructure development process | 12 |
| Difference between planning permission and approval | 12 |
| Pre-application consultations | 14 |
| Purpose of pre-application consultations and where it applies | 14 |
| Keeping the public informed of the pre-application consultations..... | 15 |
| What happens after the pre-application consultations have concluded? | 15 |
| Scoping | 17 |
| Scoping and when it applies..... | 17 |
| Keeping the public informed of the scoping requests | 17 |
| Applications | 19 |
| Informing the public when an application is made | 19 |
| Viewing or getting copies of the application | 20 |
| Taking part in the application process | 20 |
| Oral hearings and meetings | 23 |
| Oral hearings..... | 23 |
| Limited agenda oral hearings | 24 |
| Meetings..... | 24 |
| Further or additional information | 25 |
| Board's decision | 26 |
| The Board's considerations when determining an application..... | 26 |
| Material contravention of a local development plan | 27 |
| The inspector's recommendation | 27 |
| The timeframe to make a decision | 27 |
| Notification of the Board decision | 28 |
| After the Board has made its decision | 29 |
| Changes to a development after it has received planning permission or approval | 29 |
| Agreement of points of detail..... | 30 |
| Appealing the Board's decision | 31 |
| Viewing the decided case file: public access..... | 31 |

| | |
|------------------------------------------------------------------------------------------------------------|-----------|
| Judicial Review..... | 31 |
| Complaints with the way the Board dealt with the project | 32 |
| Costs | 33 |
| Making sure the Board's decision is followed: Enforcement | 34 |
| Types of strategic infrastructure development..... | 36 |
| Planning and Development Acts | 36 |
| Category 1: Seventh Schedule SID..... | 36 |
| Category 2: State developments requiring environmental impact assessment / appropriate assessment | 36 |
| Category 3: Electricity Transmission Strategic Infrastructure Development | 38 |
| Category 4: Strategic Gas Infrastructure Development | 38 |
| Category 5: Local Authority Strategic Infrastructure Development | 39 |
| Alterations to approved strategic infrastructure developments | 40 |
| Roads Acts | 40 |
| National Monuments Acts | 41 |
| Transport (Railway Infrastructure) Act..... | 42 |
| Legislation | 43 |
| Contact us..... | 44 |

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. |
| Agent | A person who acts on your behalf in an appeal, application or referral. |
| Bird Directive | A legislative act of the European Parliament and European Council to protect wild birds. |
| Board | The Board of An Bord Pleanála. |
| Environmental Impact Assessment Report (EIAR) | A document an applicant prepared that assesses the likely significant effects on the environment of a proposed development. |
| European site | An area that is or is proposed to be: <ul style="list-style-type: none">• a site of Community importance,• special area of conservation,• special protection area. |
| Habitats Directive | A series of legislative acts of the European Council to conserve natural habitats and protect animals and plants that are rare, threatened or belong exclusively to a particular place. |
| Invalid | Does not meet all of the statutory requirements needed by law and regulations to be considered by us. |

| | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lodged, To Lodge | To give or submit something to An Bord Pleanála. |
| Natura impact statement (NIS) | A document prepared by an applicant that assesses the likely significant effects on certain nature conservation sites arising from a proposed development. |
| Observation | A document submitted by an Observer (see also Submission). |
| Observer (Applications) | Any person, other than the applicant, who comments on the application. |
| Oral hearing | An oral hearing is a meeting to allow relevant issues in a case to be discussed and examined. |
| Our | An Bord Pleanála. |
| Planning authority | The local authority – county council, city council, or county and city council – responsible for planning in its area. |
| Planning and Development Act 2000; Planning and Development Acts (as amended) | An Act of the Oireachtas passed in 2000 by the Oireachtas about matters governing the planning system in Ireland. Parts of this 2000 Act have since been changed or amended by several other Acts. Together these Acts are known as the Planning and Development Acts 2000 to 2020. |
| Prescribed body | An organisation or body specified in regulations made by the Minister. |
| Public access | After a decision has been made on a case, you can view the decided planning case file within three days after the decision. This is called public access. |

| | |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulations | A law or rules made by an Act or sometimes a Government minister. |
| Scoping | Scoping is an optional procedure contained in EU directives. It allows a prospective applicant to ask the consent authority (for example: An Bord Pleanála) to give an opinion in writing on what information will be required in an environmental impact assessment report (EIAR) or Natura Impact Statement (NIS) for a proposed development. |
| Screening | Screening is an optional procedure where a prospective applicant can ask An Bord Pleanála for an Appropriate Assessment (AA) screening determination for a proposed development. |
| Site of Community importance | A site that is listed as important to the European Community and which is on a list which the European Commission has adopted under the Habitats Directive. |
| Special area of conservation (SAC) | A site that has been designated as a special area of conservation under the Habitats Directive. |
| Special protection area (SPA) | An area classified as a special protection area under the Birds Directive. |
| Statutory | Something that is decided, set up or controlled by statute law. Statute law is a law passed by the Oireachtas (parliament). |

| | |
|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Statutory requirements | <p>Requirements needed by law for:</p> <ul style="list-style-type: none"> • a case, observation, submission or request to be valid, or • some action or procedure to be carried out during the processing of a case. |
| Strategic infrastructure development (SID) | Applications for planning permission directly to An Bord Pleanála for major infrastructure developments by local authorities, State authorities and by the private sector. |
| 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 by us. |
| Us | An Bord Pleanála. |
| We | An Bord Pleanála. |
| You | You as a person, company, group, organisation or State authority. |

What is Strategic Infrastructure Development?

Strategic infrastructure development covers a wide range of developments. However, it can generally be described as development which is of strategic economic or social importance to Ireland, the region or local areas.

Strategic Infrastructure Development also includes development which would:

- contribute significantly to meeting any of the objectives of the National Planning Framework, or
- contribute significantly to meeting any regional spatial and economic strategy for an area, or
- have a significant effect on the area of more than one planning authority.

Since 2007, planning applications for proposed strategic infrastructure development are not submitted to the local planning authority but instead they are submitted to An Bord Pleanála for a decision. There are no appeals on An Bord Pleanála's decision.

What are the types of strategic infrastructure development?

There are several types of strategic infrastructure development and these can be carried out by private groups, local authorities or by State authorities.

Certain large scale private developments are listed in the 7th Schedule of the Planning and Development Acts. These are developments which normally require environmental impact assessment (EIA) and which the Board certifies as meeting certain criteria after a pre-application consultation process.

The 7th schedule divides developments into different categories and types of development which are classed as being strategic infrastructure developments. The table below gives some examples.

| | |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Energy Infrastructure | <p>Examples include:</p> <ul style="list-style-type: none"> • a thermal power station, • a crude oil refinery, • an oil pipeline, • natural gas storage, • a hydro-electric installation, and • wind farm with more than 25 wind turbines or which has a total output of more than 50 megawatts. |
| Transport Infrastructure | <p>Examples include:</p> <ul style="list-style-type: none"> • a passenger or goods facility, • a building for a railway or tramway, and • a harbour or port installation. |
| Environmental Infrastructure | <p>Examples include:</p> <ul style="list-style-type: none"> • A waste disposal installation for incineration, chemical treatment, or landfill. • Waste Water Treatment Plants for more than 10,000 people, • Transfer of water between river basins, • A dam, • Overground aqueducts, • Canalisation or flood relief works, and • Coastal works to combat erosion or maritime works capable of altering the coast. |
| Health Infrastructure | <p>Examples include:</p> <ul style="list-style-type: none"> • A health care facility |

To be classed as strategic infrastructure a proposed development needs to meet certain criteria. For example: a proposed wind farm of 20 wind turbines with a total output of 45 megawatts would not be classed as a strategic infrastructure development as it would not meet the criteria listed in the 7th Schedule of the

Planning and Development Acts. The application would be made to the local planning authority for that area. The local planning authority's decision can be appealed to An Bord Pleanála.

A wind farm of 30 wind turbines with a total output of 60 megawatts would be classed as strategic infrastructure development as it would meet the criteria listed in the 7th Schedule of the Planning and Development Acts. The application would be made to An Bord Pleanála. There are no appeals allowed on the Board's decision.

As well as 7th Schedule developments, strategic infrastructure development includes:

- proposed development by local authorities in their own area which requires Environmental Impact Assessment,
- certain developments by the State which require Environmental Impact Assessment,
- major gas pipelines and their associated terminals, buildings and installations,
- high voltage (110kv or more) electricity transmission lines and interconnectors,
- motorways and other major roads,
- development by or on behalf of a local authority on the foreshore,
- railway works including light rail and metro systems and certain associated commercial development on adjacent land, and
- compulsory acquisition of land associated with certain of the above developments.

Full details on the criteria for developments to be classed as strategic infrastructure can be found in the relevant Acts of the Oireachtas. For example: for 7th Schedule Developments the criteria are listed in the Planning and Development Acts.

Steps in the strategic infrastructure development process

The procedures depend on the type of case. For some cases there will be a three-step process of pre-application consultations, scoping followed by the application. Some cases may just have two steps of pre-application consultations followed by an application. Scoping is an option that an applicant may wish not to request before their application.

The three-step process is:

| | |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| 1 Pre-application consultations | A prospective applicant for permission / approval / other consent requests pre-application consultations with An Bord Pleanála. |
| 2 Scoping | A prospective applicant requests the Board to 'scope' the EIAR for the project |
| 3 Application | The applicant submits an application for planning permission, approval or other consent to An Bord Pleanála. |

Difference between planning permission and approval

Applications for planning permission are for 7th Schedule developments. In these cases, the Board will decide to grant permission, grant permission with conditions or refuse permission.

Applications for approval are generally for all other strategic infrastructure development. For example: in an application for a local road scheme, the Board may decide to approve, approve with conditions or refuse to approve. In an application for a motorway, the Board may decide to approve, approve with modifications or refuse to approve. Other cases may use different terminology.

Apart from terminology, there is no significant difference as the Board may agree to the proposal, agree to the proposal but decide that changes are required for the proposal to proceed or the Board does not agree to the proposal.

Pre-application consultations

Purpose of pre-application consultations and where it applies

Pre-application consultations must be requested **before** an application for permission or approval is made to An Bord Pleanála. These include the following cases where they are compulsory:

- 7th Schedule developments
- State or local authority developments
- electricity transmission lines or interconnectors,
- gas infrastructure developments,
- railway infrastructure developments.

For road developments, it is possible to ask An Bord Pleanála for pre-application consultations before an application is made.

The idea of pre-application consultations is to try to make sure that an application for permission or approval is of a high standard. This can mean that before an application is made that an applicant:

- knows the correct procedures to follow,
- has an opportunity to consider the proper planning and sustainable development,
- has an opportunity to address and consider the effects of the proposed development on the environment and habitats

These are issues that may affect the Board's consideration of the application in the future. Pre-application consultations also allow An Bord Pleanála to advise an applicant if there are specific issues with the proposal. An Bord Pleanála may also advise the applicant on public consultation. The pre-application consultations are completed when the applicant indicates to An Bord Pleanála that they wish to

conclude the consultations. There is no time limit for the consultations to be completed.

If an applicant wishes to apply for a 7th Schedule development or other strategic infrastructure development, An Bord Pleanála will consider if the development would be of strategic economic or social importance, or meets certain other criteria to be considered as a strategic infrastructure development. The Board will then give its opinion that the proposed development would or would not be strategic infrastructure development. The Board will notify the applicant and the local planning authority of its determination.

Keeping the public informed of the pre-application consultations

When An Bord Pleanála receives a request for pre-applications consultations, we will include the request in the weekly list of 'cases received' on our website. When the pre-application consultations are completed, we will include them in the weekly list of 'cases determined' on our website.

When the pre-application consultation is completed, you can view the case file through our public access service. The case file will contain the records of any meetings between An Bord Pleanála and proposed applicant held during the pre-application consultation process.

What happens after the pre-application consultations have concluded?

Generally prospective applicants can make an application to the Board for permission or approval when the consultations have concluded and the Board has determined if the proposed development is or is not strategic development.

If an applicant is applying for a 7th Schedule development or other strategic infrastructure development, the Board will need to have given its opinion that the

proposal is considered to be strategic infrastructure development. With this opinion, the applicant can make their application to An Bord Pleanála.

If the Board gives its opinion that the proposed development does not meet the necessary criteria to be considered as strategic development, the planning application must be made in the normal way to the local planning authority. After the planning authority makes a decision, it is possible to make an appeal to the An Bord Pleanála against the planning authority's decision.

Scoping

Scoping and when it applies

Scoping is an optional procedure contained in EU directives. It allows a prospective applicant to request An Bord Pleanála to give an opinion in writing on what information will be required in an environmental impact assessment report (EIAR) about a proposed development. This is part of An Bord Pleanála's role as the consent authority for the application.

In the case of strategic infrastructure development, scoping requests are voluntary and can be made for:

- 7th Schedule developments,
- local authority developments,
- State developments,
- electricity transmission lines or interconnectors,
- gas developments, and
- railway development, and
- road developments.

The Board may request prescribed bodies specified in the Planning and Development Regulations to participate and give their comments in the scoping process.

Keeping the public informed of the scoping requests

When An Bord Pleanála receives a scoping request, we will include the request in the weekly list of 'cases received' on our website. When it is completed, we will include it in the weekly list of 'cases determined' on our website.

When the scoping request is completed, An Bord Pleanála's case file will be available for inspection and purchase. You can view the decided case file through our public access service.

Applications

Informing the public when an application is made

Before applying to the Board, the prospective applicant must publish a notice of the proposed application in at least one newspaper circulating in the area of where the proposed development is to be located. In most cases, site notices will also be required.

These notices will:

- give the name of the applicant,
- give details about the nature and location of the proposed development,
- if an Environmental Impact Assessment Report (EIAR) is required and has been prepared by the applicant,
- if a Natura Impact Statement (NIS) is required and has been prepared by the applicant,
- the times and places where the application, EIAR or NIS can be viewed and copies bought,
- that an application is to be made to the Board for planning permission or approval depending on the type of case,
- the types of decision which the Board may make,
- that the public may make observations on the proposed application to An Bord Pleanála (at least six weeks will be allowed), and
- that prescribed bodies may make observations on the proposed application to An Bord Pleanála.

An Bord Pleanála will publish details about the application we have received in the weekly list of new cases on our website.

Viewing or getting copies of the application

There are two ways you can see or get copies of the application.

Application's Website

The applicant must provide a website where the application can be inspected. You can find the website address on the newspaper notice **and** on the site notice. The notices will provide information on how the public can make an observation to An Bord Pleanála about the application.

Hard copies at An Bord Pleanála's office and local planning authority's office

The applicant must give paper copies of the application to An Bord Pleanála and the local planning authority and they are available for viewing for at least **six weeks**. The applications can be viewed at An Bord Pleanála's office and the local planning authority's office. If the development is in more than one planning authority area, copies of the application will be available in each local planning authority. The documents can be inspected free of charge. You can also buy a copy of the application for a reasonable cost depending on the number and format of the pages in the application documents.

An Environmental Impact Assessment Report (EIAR) or a Natura Impact Statement (NIS) or both EIAR and NIS may be submitted with the application. If they are, you can view and buy a copy of them at An Bord Pleanála's office and the local planning authority's office.

Taking part in the application process

Anyone can make an observation to An Bord Pleanála within the time period allowed. The time period is at least **six weeks** from the date specified in the newspaper notice or site notice. The time period specified in the notice is also the same time period in which you can view and buy copies of the application.

Before making an observation, you can also view the pre-application consultation case file through our public access service.

If making an observation, it should contain your views on the proposed development's possible effects on:

- the proper planning and sustainable development of the area,
- the environment of the proposed development, and
- an European site where applicable.

There are also other requirements to make a valid observation. You must:

| | |
|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ✓ | make your observation in writing (either typed or handwritten). |
| ✓ | clearly state your own name and postal address . If a planning agent is acting for you in this observation, the agent must clearly write their own name and postal address as well as your name and postal address. |
| ✓ | give us enough details to allow us to easily identify the application you wish to make an observation on. Examples of the details we accept are: <ul style="list-style-type: none"> • the name and location of the application (for example: Ballytown Transport Hub, Main Street, Ballytown, Co. Ballytown), or • the An Bord Pleanála case reference number for the application. (for example: ABP-300000-20). |
| ✓ | give us: <ul style="list-style-type: none"> • your planning grounds of observation (reasons and arguments), and • any items you wish to support your grounds of observation. |
| ✓ | make sure that the submission or observation is received by An Bord Pleanála within the time period given in the public notice of the application. |
| ✓ | pay the correct fee of €50 fee (except if you are a prescribed body). |
| ✓ | make your observation on time and within the specified time period. |

These are explained more fully in our guide on how to make an observation on a strategic infrastructure development application.

During the application process, An Bord Pleanála may decide to hold an oral hearing or may decide to request further significant information about the application.

However, if you are making an observation it is very important that you carefully prepare your grounds of observation (reasons and arguments) and any documents you wish to include. When you have made your observation, you cannot make any further observation unless we specifically ask you for them. Please note that An Bord Pleanála cannot consider non-planning issues.

Oral hearings and meetings

Oral hearings

The Board has the power to hold an oral hearing with or without a request for one. In some cases, the Board may consider that the issues involved in the case can be adequately and appropriately assessed by way of written observations and submissions.

The applicant and any person who makes submissions to An Bord Pleanála about the application can request an oral hearing. If you have paid the application fee or €50 fee to make an observation there is no additional fee to request an oral hearing.

If the Board decides to hold an oral hearing:

- we will write to all participants in the case about the arrangements for the oral hearing.
- we will publish on our website details about the oral hearing and the agenda.

At an oral hearing, the inspector's powers include:

- running the oral hearing efficiently and without unnecessary formality
- limiting the time which any person may make points or arguments
- refusing to allow a point or argument which is not relevant to the oral hearing or that is repeating items already mentioned.
- allowing or refusing someone to make an observation at the oral hearing that has not already done so during the time period that observations could be made to An Bord Pleanála.

Our oral hearing guide gives information about:

- how you can prepare before the oral hearing,
- who attends an oral hearing,
- what happens at a typical oral hearing, and
- what happens afterwards.

Limited agenda oral hearings

The Board can decide that due to the issues involved with the proposed development that a “limited agenda” oral hearing takes place. This may be based on a recommendation by the inspector who will be in charge of the oral hearing. If a limited agenda oral hearing takes place, it will focus **only** on the issues contained within the limited agenda.



If the Board decides to not hold an oral hearing or an oral hearing with a limited agenda, if you have made a written observation your views will still be heard as the Board considers all the written observations we have received about the application. The observations will be considered by the inspector in their assessment of the application and by the Board when making its decision.

Meetings

The Board may also hold a meeting with the applicant or any other person the Board considers has relevant information about the case. The Board may decide to hold an oral hearing and a meeting in the same case. A meeting can be called and held either before or after an oral hearing.

Only the Board can call a meeting. It is not possible for an applicant or an observer to request a meeting.

Further or additional information

The Board has powers to request additional information from the applicant and others about the application if it considers it to be appropriate. On some occasions it may consider it appropriate to request:

- a revised EIAR or revised NIS from the applicant
- further submissions from:
 - the applicant,
 - anyone who made an observation about the application, or
 - any other person including prescribed bodies who may have relevant information.

When the Board receives a revised EIAR, NIS or further information, it may consider that the revised EIAR, NIS or further information contains significant additional information on the effects of the proposed development on the environment. In this situation, the Board will:

- make the revised EIAR, NIS or further information available for inspection, and
- invite further submissions to be made within a specified period and give notice of those matters.

Whilst the Board has the power to request a revised EIAR or NIS or further information this may not always happen in a case. Anyone making an observation should make their full and complete arguments on the case in their observation.

Board's decision

The Board's considerations when determining an application

The Board makes decisions on Strategic infrastructure development applications in a similar way to other cases such as planning appeals. Therefore, the Board considers:

- the proper planning and sustainable development of the area
- the effects, if any, the proposed development would have on the environment
- the effects, if any, the proposed development would have on a European site where applicable
- the policies and objectives of the local development plan(s),
- Ministerial planning guidelines,
- regional spatial and economic strategy,
- the National Planning Framework,
- the policies and objectives of the Government,
- the national interest,
- the application,
- any further information received following a request from the Board,
- the EIAR, if applicable,
- the NIS, if applicable,
- any observations or submissions made to the Board about the application,
- the report of the local planning authority(s), including any recommendations submitted by the elected members of the authority, and
- the report and recommendation of the Board's inspector on the application
- the information received at the oral hearing.

Material contravention of a local development plan

The Board will consider the policies and objectives of the local development plan when making its decision. If the application covers more than one local authority area, the Board will consider all the relevant local development plans. However, the Board has the power not to follow a part of these development plans depending on the circumstances of the case. This is called a material contravention.

The inspector's recommendation

On each case, an inspector will prepare a report and recommendation for the Board. The Board must consider the inspector's report and recommendation. However, the Board is **not** required to accept the inspector's recommendation and has the power to decide something different from what the inspector has recommended.

In any case where the Board does not accept the inspector's recommendation to grant or refuse, the Board will state the reason for not accepting the recommendation. Sometimes the Board may accept the general recommendation such to grant or refuse permission, but can:

- decide to change or remove parts of the proposed development,
- change one, some or all of the conditions to be attached to the grant of permission, or
- change the reasons for a refusal.

The timeframe to make a decision

The Board has a statutory objective to determine strategic infrastructure cases within eighteen weeks. This eighteen-week period starts on the last day for An Bord Pleanála to receive observations from the public. The eighteen-week period includes the period in which an oral hearing may take place. The period also includes any request for further information or a revised EIAR or NIS.

When it is not possible or appropriate for the Board to make a decision on the case within the eighteen-week time frame, we will write to all participants in the case and give a revised date when the Board plans to make a decision.

Notification of the Board decision

We will write a letter to all participants in the case to inform them of the Board's decision. This letter will be sent by post. The decision will also be available on our website www.pleanala.ie.

After the Board has made its decision

Changes to a development after it has received planning permission or approval

A person who is carrying out or plans to carry out a strategic infrastructure development can request permission from the Board for changes to a development. This development will have already have received a grant of permission or approval from the Board.

| | |
|------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Alteration | A proposed change that is considered not to be significant and not requiring a public consultation. |
| 2. Material alteration (not likely to have significant effects on the environment) | A proposed change which is considered not likely to have significant effects on the environment. In this situation the Board may allow a change after the information about the requested change has been made available for inspection. The Board has the power to invite any person (including members of the public) to make submissions about the request. |
| 3. Material alteration (likely to have significant effects on the environment) | A proposed change which is considered likely to have significant effects on the environment. The Board will require the applicant to prepare an EIAR about the proposed change and submit it to the Board. The usual EIA procedures will then apply which will include steps such as: <ul data-bbox="719 1805 1310 1955" style="list-style-type: none">• public notification of EIAR, and• request for public submissions to the Board. |

4. Clarifying or correcting errors in Board Orders

The Board can amend its decision if it considers there is:

- a. a clerical error in the Board Order, or
- b. a need to clarify what the Board intended should be permitted by the permission or approval.

This type of change is not allowed to result in significant changes to the development as was given in the grant of permission or approval. The Board may invite submissions about the proposed changes before it decides to amend or not amend a decision.

Depending on what is proposed to be changed or amended, An Bord Pleanála will follow the required relevant process. The Board can decide to agree or disagree with the changes that the applicant has proposed.

Agreement of points of detail

In a 7th Schedule development case, the Board can make a decision to grant permission to a development. As part of the grant of permission, the Board may include conditions for the development to be carried out. Details in a condition or several conditions may require agreement between the person carrying out the development and the planning authority in whose area the development will take place. The agreement must be restricted to the points specified in the Board's condition.

If the planning authority and the person carrying out the development cannot reach an agreement on a detail or details, the matter can be referred to An Bord Pleanála. An Bord Pleanála will then determine the matter.

Appealing the Board's decision

It is not possible to make a planning appeal on the Board's decision on a strategic infrastructure case.

Viewing the decided case file: public access

The entire file on a case which we receive may be inspected by any member of the public for at least five years within three days after An Bord Pleanála has made the decision. A copy of the Board Order and Direction and the Inspector's report is also available on this website. Copies of any documents on the file may be purchased at the Board's offices and it is possible to take photographs of most documents on a case file. It is not currently possible to view full decided case files on our website but we hope to introduce online case files in the future.

You can find out more on how to view decided cases files in our information guide "Viewing decided case files: Public Access".

Judicial Review

The Board's decision is the final planning decision on the application. However, it is possible to ask a court for a judicial review of the Board's decision. A judicial review is where a judge reviews An Bord Pleanála's actions to see that we have followed the rules and procedures we are required to follow to be able to make a decision. If a judge decides we have not applied the rules and procedures properly in making a decision, the judge can overturn the Board's decision or ask the Board to reconsider the case. But the judge will not consider the case from a planning perspective.

To ask for a judicial review you will need to make an application under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with section 50 of the Planning and Development Act, 2000, as amended. It should be noted that any challenge taken must generally be made within 8 weeks of the relevant Board decision. However, a time extension may be allowed in certain circumstances.

Further information on the judicial review process can be found in the document judicial review of planning decisions on this website or on the Citizens Information Service website www.citizensinformation.ie. You may also wish to seek legal advice.

Complaints with the way the Board dealt with the project

An Bord Pleanála has a well-publicised, accessible, transparent and simple-to-use system of dealing with complaints about our quality of service. Details of the system are set out in its Customer Services Action Plan. All complaints will be dealt with fairly and impartially and an appeal mechanism applies.

Costs

During an application, participants in a case may have had costs to make their observation about the application. The Board has the power to award a contribution towards reasonable costs. The Board has the power to decide what costs are reasonable and can decide to award all, some or none of the costs requested by the participant.

Cost requests apply in:

- 7th Schedule cases,
- electricity transmission cases,
- gas infrastructure cases,
- railway projects cases,
- local authority sponsored development cases,
- local authority compulsory acquisitions cases,
- road developments, and
- compulsory acquisitions relating to the 1976 Gas Act and the 1998 Air Navigation Act.

In the case of 7th Schedule cases, electricity transmission and gas infrastructure, the Board must make the costs award at the same time as it makes its decision on the planning application. Therefore, the Board will generally request submissions from the relevant participants about the awarding of costs. This request will normally be at an intermediate stage in the case. For example: after an oral hearing has finished, if one has been held. A time period will be set in which applications for costs can be sent to the Board. The Board will not accept applications for costs after this time period.

In railway order applications, applications for cost recovery can be processed after the Board has made its decision.

Making sure the Board's decision is followed: Enforcement

When the Board has made its decision, a copy of the Board Order will be sent to all participants in the case and will be published on our website. Sometimes a copy of the Board Direction will also be sent to the participants in the case. The planning authority for the area in which the case is situated will receive a copy of the Board Order for its records. This is the end of An Bord Pleanála's role with the development.

Apart from Railway Orders, the law does not give the responsibility to An Bord Pleanála to make sure that decisions are being respected and followed. This is known as enforcement. We do not have powers to make sure that the Board's decisions are being followed or complied with. Instead the local planning authority is responsible for interpreting the conditions of the Board's Order and making sure that the Board's decision is carried out.

Should you have a concern that a Board decision is not being followed or complied with, please contact the enforcement section of the local planning authority. A planning authority must follow up on genuine complaints made to it by members of the public regarding unauthorised development including non-compliance with planning decisions.

Complaints in relation to unauthorised development will be investigated by the planning authority. In circumstances where it is considered that the planning authority is not following up on a genuine complaint in relation to unauthorised development / enforcement, the Ombudsman or the Office of the Planning Regulator may be willing to assist in resolving the issue. In certain circumstances, any person may apply to the High Court or Circuit Court for an injunction in relation to

unauthorised development. For further information, contact the Citizens Information Service or see legal advice.

In a case of where the Board grants an application for a railway order, the Board may revoke the order where there is a failure or refusal to comply with a condition, restriction or requirement specified in the railway order. Any person may write to the Board if they consider that the Board's order is not being implemented in accordance with the grant and the Board will follow-up on the matter.

Types of strategic infrastructure development

This summary outlines the cases that are described as strategic infrastructure development. For full details you are advised to check the relevant legislation.

Planning and Development Acts

Category 1: Seventh Schedule SID

| | |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 37A/37E | Application for permission for a proposed development specified in the Seventh Schedule. The Board has previously determined that the proposed development qualifies as strategic infrastructure development by meeting the criteria set out in section 37A. The application is made directly to the Board. |
| Section 37B | Request to open compulsory pre-application consultations with the Board about a Seventh Schedule proposed development. |
| Section 37D | Request by a prospective applicant to scope an Environmental Impact Assessment Report (EIAR) for a proposed Seventh Schedule development which has been deemed strategic infrastructure. |
| Section 37G (10) | Referral to the Board for determination of points of detail which were to be agreed between a developer and the planning authority by the terms of a condition attached to a grant of permission (under section 37G) and were not so agreed. |

Category 2: State developments requiring environmental impact assessment / appropriate assessment

| | |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 181A/181B | Application for approval by a state authority in respect of certain classes of proposed development specified in article 86 of the Planning and Development Regulations 2001. Application requires environmental impact assessment or |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| | |
|-------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | appropriate assessment (for example: sensitive security and other such proposed development). |
| Section 181C(1) | Request by a prospective applicant to open compulsory pre-application consultations with the Board about a proposed development covered by section 181A. |
| Section 181C(3)(a) | Request by a prospective applicant for a determination by the Board of whether a development or proposed development of a class set out in article 86 is likely to have significant effects on the environment and thus require environmental impact assessment or would require an appropriate assessment under the Habitats Directive. |
| Section 181C(3)(b) | Request by a prospective applicant to scope an Environmental Impact Assessment Report (EIAR) or a proposed Natura impact statement (NIS) for a proposed development covered by section 181A. |
| Section 181B(2) | Grant of exemption by the Board about a proposed development covered by section 181A from a requirement to prepare an EIAR or an NIS. |
| Article 123A of Planning and Development (Regulations) 2001 as amended | Request to the Board to determine whether a proposed sub-threshold State development under section 181 would be likely to have significant effects on the environment thus requiring an EIAR and an approval application under section 181A to the Board. |
| Article 254 of Planning and Development (Regulations) 2001 as amended | Application to determine whether a proposed State development under section 181 would be likely to have a significant effect on a European site thus requiring appropriate assessment and an approval application under section 181A to the Board. |

Category 3: Electricity Transmission Strategic Infrastructure Development

| | |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 182A | Application for approval of proposed development comprising of or for the purposes of electricity transmission as defined in sub-section (9) of section 182A. |
| Section 182B(2) | Grant of exemption by the Board in respect of a proposed development covered by section 182A from a requirement to prepare an EIAR. |
| Section 182E(1) | Request by a prospective applicant to open the required pre-application consultations with the Board about a proposed development covered by section 182A. |
| Section 182E(3) | Request by a prospective applicant to scope an EIAR for a proposed development covered by section 182A. |

Category 4: Strategic Gas Infrastructure Development

| | |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 182C | Application for approval of proposed strategic gas infrastructure development as defined in section 2(1) of the Planning and Development Act 2000 (as inserted by section 6 of the Planning and Development (Strategic Infrastructure) Act 2006). |
| Section 182D(2) | Grant of exemption by the Board in respect of a proposed development covered by section 182C from a requirement to prepare an EIAR. |
| Section 182E(1) | Request by a prospective applicant to open the required pre-application consultations with the Board about a proposed development covered by section 182C. |
| Section 182E(3) | Request by prospective applicant to scope an EIAR for a proposed development covered by section 182C. |

Category 5: Local Authority Strategic Infrastructure Development

| | |
|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 175 | Application for approval of local authority proposed development requiring environmental impact assessment within the functional area of the relevant local authority (other than road developments). |
| Section 175(8) | Grant of exemption by the Board about a proposed development covered by section 175 from a requirement to prepare an EIAR. |
| Article 117 of Planning and Development (Regulations) 2001 | Request by a prospective applicant to scope an EIAR in respect of a proposed development covered by section 175. |
| Article 120(3) of Planning and Development (Regulations) 2001 | Request to the Board to determine whether a proposed sub-threshold local authority development would be likely to have significant effects on the environment and thus require environmental impact assessment. |
| Section 226 – Foreshore Development | Application for approval of local authority proposed development which is proposed to be carried out wholly or partly on the foreshore and which requires environmental impact assessment. |
| Section 175(8) | Grant of exemption by the Board about a proposed development from requirement to prepare an EIAR for a proposed development covered by section 226. |
| Section 226(6) | A local authority or the Minister with responsibility for the matter refers to the Board to determine whether a sub-threshold local authority development proposed to be carried out wholly or partly on the foreshore would be likely to have |

| | |
|--|------------------------------------------------------------------------------------------|
| | significant effects on the environment and thus require environmental impact assessment. |
|--|------------------------------------------------------------------------------------------|

Alterations to approved strategic infrastructure developments

| | |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 146B | This is a general provision applicable to strategic infrastructure development that provides for a request to the Board from a person who is carrying out or intending to carry out a strategic infrastructure development to alter the terms of a development which has already been approved. |
| Section 146C | Decision by the Board on a request for an alteration under section 146B where the Board has directed that an EIAR be prepared in respect of the proposed alteration. |
| Section 146D | Amendment or alteration request about railway works covered by a railway order. |

Roads Acts

Strategic Infrastructure Development under the Roads Act 1993

This generally covers major road proposals by road authorities (including Transport Infrastructure Ireland) including motorways and other road developments which require environmental impact assessment.

| | |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 49 | Application by a road authority for approval of a motorway scheme, a service area scheme, a bus way scheme, a protected road scheme or a protected road scheme amending an approved protected road scheme. |
| Section 51 | Application by a road authority for approval of a proposed road development. |
| Section 50(1)(b) | Direction by the Board to a road authority to prepare an Environmental Impact Assessment Report about a proposed sub-threshold road development where the Board considers |

| | |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | that the development would be likely to have significant effects on the environment and thus require environmental impact assessment. |
| Section 50(1)(c) | The road authority informs the Board that it believes that a sub-threshold proposed road development would be likely to have significant effects on the environment. The Board must determine whether it concurs with the road authority opinion and if it does it shall give a direction under section 50(1)(b) to the road authority to prepare an EIAR. |
| Section 50(4) | Request to the Board from a road authority for scoping of an EIAR in respect of a proposed road development. |
| Section 51A | Request by a road authority or Transport Infrastructure Ireland to enter into pre-application consultations about a proposed road development. |

National Monuments Acts

Board functions under the National Monuments Acts 1930 - 2004

The National Monuments (Amendment) Act 2004 brought in new provisions relating to procedures where a national monument is discovered during the carrying out of an approved road development and same was not dealt with in the original approval / EIAR for the road. The citations relate to new sections of the 1930 Act inserted by the 2004 Act.

| | |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 14B(3) | Determination by the Board as to whether changes to an approved road development necessitated by Ministerial directions relating to a national monument constitute a material alteration to an approved road development. |
| Section 14B(8) | Decision by the Board following receipt and consideration by it of an EIAR covering a change to an approved road |

| | |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | development which the Board has determined constitutes a material alteration to the approved road and which is likely to have significant adverse effects on the environment. |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Transport (Railway Infrastructure) Act

Strategic Infrastructure Development under the Transport (Railway Infrastructure) Act 2001

| | |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 37 | Application for a railway order by the National Transport Authority (NTA), Transport Infrastructure Ireland (TII), CIÉ or any other person with the consent of the NTA. |
| Section 47B | Request by a prospective applicant to open compulsory pre-application consultations about proposed railway works which will be subject to an application for a railway order. |
| Section 39(3) | Request to scope an EIAR for railway works which will be the subject of an application for a railway order. |
| Section 43(6) | Revocation of a railway order by the Board. |

Legislation

The laws and regulations referred to in this document are:

- Planning and Development Act 2000, as amended,
- Planning and Development Regulations 2001, as amended.
- National Monuments Acts 1930, as amended.
- Roads Act 1993, as amended.
- Transport (Railway Infrastructure) Act 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 |
| 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: | sids@pleanala.ie |
| Visit our website: | www.pleanala.ie |
| Send us a fax on: | (01) 872 2684 |

This edition: February 2021