

Provision of information to members of the Oireachtas by An Bord Pleanála

Quarter 3 2019 : 1 July 2019 to 30 September 2019

Query Number	Date Received	Acknowledged	Deputy / Senator	Query Subject	Query	Substantive Reply Issued	Substantive Reply	Language	Quarter	Year
OIR/19/007	19/06/2019	20/06/2019	Deputy Catherine Murphy TD	Inspectorate; Other	In order to implement the European Court of Justice judgement in Case C-215/06, Section 23(c) of the Planning and Development (Amendment) Act 2010, amended Section 34(12) of the 2000 Act, to provide that a retention application cannot be accepted by a planning authority for a development which requires an environmental impact assessment (EIA). In this regard, could ABP outline under what "exceptional circumstances" An Bord Pleanála is authorised to accept EIA for a retention application?	10/07/2019	<ul style="list-style-type: none"> · The Planning and Development Act 2000 was amended by the Planning and Development Act 2010 by insertion of a new Part XA which provided for a new type of planning application called a "substitute consent" application. This type of application was provided to enable certain developments that have already been carried out be subject to a new type of retrospective planning permission where, inter alia, any necessary Environment Impact Assessment on the development can be completed. · Under section 177D of the Act An Bord Pleanála can only grant leave to make such a substitute consent application in certain defined circumstances (set out at 177D(1)(a)) or where An Bord Pleanála considers that other exceptional circumstances exist to justify granting such leave (see 177D(1)(b)). · While there is no definition of exceptional circumstances in the Act sub-section (2) of section 177D provides that in considering whether exceptional circumstances exist An Bord Pleanála shall have regard to the following matters: <ul style="list-style-type: none"> (a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive; (b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised; (c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired; (d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development; (e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated; (f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development; (g) such other matters as the Board considers relevant. · The Board must have regard to the matters listed at (a) to (f) above but it is not necessarily limited to those as recognised by paragraph (g). Accordingly, An Bord Pleanála treats any application made to it for leave to apply for substitute consent on the particulars of the case including any points made by the applicant in its application for leave. · Please note for your information that in addition to Part XA as outlined above the Planning and Development Act 2010 also inserted a new section 261A into the Planning and Development Act 2000 which provided for substitute consent for certain quarry developments as set out in that section. The question of exceptional circumstances does not feature in that section. 	EN	Q2	2019
OIR/19/008	27/06/2019	27/06/2019	Deputy Catherine Murphy TD	Housing	A breakdown of Strategic Housing Developments in Kildare North currently before An Bord Pleanála	18/07/2019	<p>There is one application and three pre-application consultation requests in Co. Kildare currently before An Bord Pleanála as of today 18 July 2019. Details of these cases is attached for your information.</p> <p>[Link to reply document OIR/19/008]</p>	EN	Q2	2019
OIR/19/009	02/07/2019	02/07/2019	Deputy Mary Mitchell O'Connor TD	Housing	Update in relation to the changed date on the submission deadline for case [Details supplied of case in Dún Laoghaire-Rathdown County Council Area]	23/07/2019	<p>Our records show that the relevant webpage on our website was published with the [date provided] as the last date for submissions to be received on this case. We are unaware of how any incorrect date would have been given to any party. The Board decided to grant permission with conditions to this application on [Date provided]. The Inspector's Report, Board Direction and Board Order can be viewed on our website at the following page: [URL provided].</p>	EN	Q3	2019
OIR/19/010	31/07/2019	02/08/2019	Seán Haughey TD	Other	Dublin City Council recently considered four Section 5 applications – [reference numbers provided]. These were in respect of a proposed development at [address provided]. All applications were approved and the proposal was deemed to be exempted development. Is there any role under the Planning Acts for An Bord Pleanála to consider these applications further and if the applicants can get a ruling from the Board on the matter.	02/08/2019	<p>Section 5 of the Planning and Development Act 2000, as amended. Where a planning authority issues a declaration on a question as to what, in any particular case, is or is not development or exempted development any person issued with the planning authority declaration may on payment of the prescribed fee of €220 refer the declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration.</p> <p>Any such referral is also subject to the requirements of section 127 of the Planning and Development Act 2000 which are that –</p> <ul style="list-style-type: none"> (i) the referral shall be made in writing, (ii) shall state the name and address of the person making the referral and of the person, if any, acting on his or her behalf, (iii) shall state the subject matter of the referral, (iv) shall state in full the grounds of the referral and any reasons, considerations and arguments on which they are based, (v) be accompanied by the required fee of €220, and (vi) be made within the 4 week period of the date of the issuing of the declaration. <p>Any referral which does not comply with these requirements is statutorily required to be deemed invalid.</p>	EN	Q3	2019

Query Number	Date Received	Acknowledged	Deputy / Senator	Query Subject	Query	Substantive Reply Issued	Substantive Reply	Language	Quarter	Year
OIR/19/011	12/08/2019	13/08/2019	Minister Brendan Griffin TD	Appeal Case (Live)	Current position of an appeal in Co. Kerry	13/08/2019	I have contacted our appeals processing section and the case will be considered further. It is expected that a decision will be issued before [date provided]. The Board regrets the delay involved in this case. [Case officer details supplied]. [The Case officer] has been requested to notify you when a decision is made on this case.	EN	Q3	2019
OIR/19/012	13/08/2019	14/08/2019	Deputy Michael McGrath TD	Appeal Case (Live)	The reasons why a submission was not treated as an observation on case [Details provided of a case in Co. Cork]	26/08/2019	The Board received a letter from [Name provided] on 20th November 2018 in which she intended to lodge an appeal. The letter stated she wished to appeal and stated that €220 was enclosed which is the requisite amount for lodging a valid appeal. The appeal was declared invalid as it enclosed the incorrect fee of €50. [Name provided] was notified of the position on 27th November 2018. She was also informed of the provisions of Section 130, which provides that any person other than a party to the appeal may make submissions to the Board in relation to an appeal. She was also advised that the €50 payment which she lodged was being processed in the Board's offices awaiting a fee refund. As refunds can take time to process, [Name provided] was further advised that if she intended lodging an observation on the appeals already submitted to the Board, she must submit the required fee of €50 notwithstanding the fee refund which was currently pending from the Board's offices. The fee refund on the invalid appeal issued on 12th December 2018. The final date for submitting a valid observation on the appeal was 17th December 2018.	EN	Q3	2019
OIR/19/013	23/09/2019	25/09/2019	Deputy Eamon Scanlon TD	Appeal Case (Live)	Representation on an appeal in Co. Mayo [Details provided]	25/09/2019	On reviewing your email, I have considered it to be a representation and I have therefore forwarded it to the case officer for this appeal. [Case Officer details supplied]. [Case Officer] has been requested to notify you when a decision is made on this case. The case is currently being prepared for an inspector for their inspection and report. Once the inspector's report and recommendation are completed, the case will then be forwarded to the Board for a decision. As you mention in your email, the decision date for this case is [Date provided]. This decision date is due to section 251 of the Planning and Development Acts, as amended, where the Christmas period between 24 December and 1 January is disregarded for calculating time limits for An Bord Pleanála's functions under the Planning and Development Acts.	EN	Q3	2019
OIR/19/014	26/09/2019	26/09/2019	Deputy Maurice Quinlivan TD	Salaries / Remuneration; Staffing Levels / HR	The number of workers employed by your organisation that earn less than the living wage of €12.30 per hour.	16/10/2019	An Bord Pleanála does not have any staff members on or below the living wage at present.	EN	Q3	2019
OIR/19/015	26/09/2019	26/09/2019	Deputy Thomas Broughan TD	Housing	It is possible to submit just the one observation covering both of the above plans [An Bord Pleanála Case References provided].	30/09/2019	As there are two applications for two different plots, two separate observations would have to be made. The last day for submissions is [Date provided].	EN	Q3	2019