

File With _____

SECTION 131 FORM

Appeal NO: PL04.248/53

Defer Re O/H

☐

TO: SEO

Having considered the contents of the submission dated/ received 3/8/17
fromApplicants Agent I recommend that section 131 of the Planning and Development Act, 2000
~~is~~ not be invoked at this stage for the following reason(s): no new issuesE.O.: [Signature]Date: 18/10/17

To EO: _____

Section 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached submission

to: _____

Allow 2/3/4 weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: PL 04.248153M S. CollinsPlease treat correspondence received on 3/8/17 as follows:

1. Update database with new agent for Applicant/Appellant _____

2. Acknowledge with BP 233. Keep copy of Board's Letter ☐

1. RETURN TO SENDER with BP _____

2. Keep Envelope: ☐3. Keep Copy of Board's letter ☐Amendments/Comments Response to S. 131 from Applicant

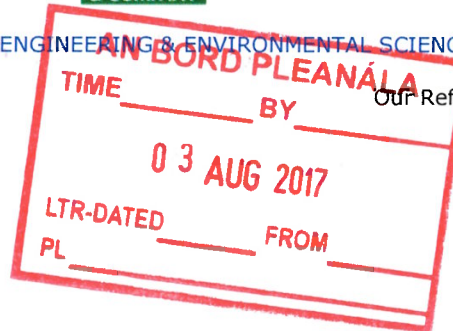
4. Attach to file

(a) R/S ☐(d) Screening ☐(b) GIS Processing ☐(e) Inspectorate ☐(c) Processing ☒RETURN TO EO ☐

	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>pub 8/17</u>	AA: <u>Ros Cent</u>
Date: <u>8/8/17</u>	Date: <u>9/8/17</u>



CONSULTANTS IN ENGINEERING & ENVIRONMENTAL SCIENCES



Our Ref: P0067/Lett/SMcC/MG

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

02 August 2017

Re: Response to Reactivated Appeal: 6 no. wind turbines. Lackareagh and Garranereagh

Applicant: Applicant: Barna Wind Energy (B.W.E) Limited.
ABP Ref: PL04.248153 (245824)
Cork County Council Ref: 14/6760

Dear Sir,

Fehily Timoney & Company on behalf of Barna Wind Energy (B.W.E) Ltd. make this response to An Bord Pleanála correspondence dated the 10th July in respect of the above outlined appeal.

We note with respect to the proposed 6no. wind turbine development ABP Ref. PL04.248153 (245824) that the Board state that:

"A copy of the High Court order is attached to this letter for your information. Having regard to the foregoing the appeal has now been reactivated.....An Bord Pleanála is now circulating for comments submissions received from the applicant for planning permission in response to both third party appeals lodged to all other parties and observers to the case".

For clarity, please note that attached to the cover letter is a copy of the Court Ruling on the matter only.

Given that this notice relates to third party objectors and observers and not the applicant, the applicant in this instance has no comment to make except to request ABP to make a statutory decision at the earliest possible time.

We trust you will have regard to the above in the deliberations of this appeal.

Yours sincerely,

Jim Hughes
for and on behalf of **Fehily Timoney & Company**

Encl.

CORE HOUSE, POULADUFF ROAD, CORK, IRELAND

T: +353 21 4964133 F: +353 21 4964464 E: info@ftco.ie W: www.fehilytimoney.ie

Directors: Eamon Timoney David McHugh Bernadette Guinan

Company Secretary: Sinead Timoney

Registered in Ireland, Fehily Timoney & Company Ltd. Number 180497

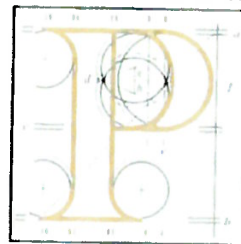
Registered Office: Core House, Pouladuff Road, Cork. VAT Registration Number: IE6580497D



Our Ref: PL 04.245824
P.A.Reg.Ref: 14/6760
Your Ref: Barna Wind Energy (BWE) Ltd.

P867

An Bord Pleanála



Fehily Timoney & Company,
Core House,
Pouladuff Road,
Togher,
Cork.



12 JUL 2016

Appeal

Re: 6 no. wind turbines.

Lackareagh & Garranereagh, Lissarda & Barnadivane, Terelton, Co.Cork

Dear Sir/Madam,

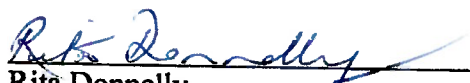
An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2015. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

In cases where a grant of (full) planning permission is notified by the Board, it is policy to include a copy of the Department of the Environment and Local Government's Leaflet PL11 - **Guide to the Building Control System** and a copy of the Health and Safety Authority's leaflet **Safety and Health on Construction Projects - The Role of Clients** with the notification. These leaflets are issued at the request of the above bodies.

Yours faithfully,


Rita Donnelly
Executive Officer

Encl:

BP 100LN.ltr

FEHILY TIMONEY & Co.

Distribution **SMCA**

13 JUL 2016

Job No:

Correspondence No: **2**

Comment:



(11)

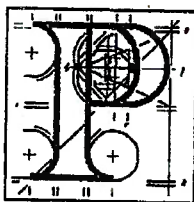
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An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Cork County

Planning Register Reference Number: 14/06760

An Bord Pleanála Reference Number: PL 04.245824

APPEAL by Jerome Cohalan and Geraldine Hanley of Gurraneigh, Lissarda, County Cork and by Barna Wind Action Group care of Noonan Linehan Carroll Coffey Solicitors of 54 North Main Street, Cork against the decision made on the 3rd day of November, 2015 by Cork County Council to grant subject to conditions a permission to Barna Wind Energy (BWE) Limited care of Fehily Timoney and Company of Cork House, Pouladuff Road, Cork in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of six wind turbines, with a maximum tip height of 131 metres and associated turbine foundations and hardstanding areas, one number permanent meteorological mast up to 90 metres in height, upgrade of existing and provision of new site tracks and associated drainage, new access junction and improvements to public road to facilitate turbine delivery, one number borrow pit, underground electrical and communications cables, permanent signage and other associated ancillary infrastructure at Lackareagh and Garranereagh, Lissarda and Barnadivane (Kneevies), Teerelton, County Cork. This application is intended to replace the development already granted permission under PL04.219620 (planning register reference number 05/5907) and subsequently extended under planning register reference number 11/6605. This application is seeking a 10 year planning permission. (As amended by the further public notice received by the planning authority on the 5th day of June, 2015).

TIME	RY
03 AUG 2017	
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DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

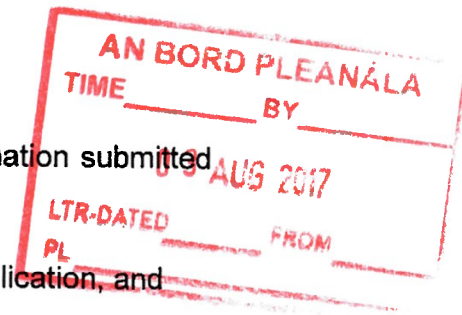
In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to –

- (a) the European and national policies to increase the proportion of energy that is generated from renewable sources including wind set out in the Renewable Energy Directive 2009/28/EC and the National Renewable Energy Action Plan which sets a target that 40% of the electricity generated in Ireland would be from renewable sources by 2020,
- (b) the Guidelines for Planning Authorities on Wind Energy Development issued by the Department of the Environment, Heritage and Local Government in June, 2006 and the limits set therein for noise and shadow flicker,
- (c) the provisions of the Cork County Development Plan 2014-2020, including objective ED-4 and the designation of the area as one where wind energy development is acceptable in principle,
- (d) the planning history of the site,
- (e) the character of the landscape of the area,
- (f) the distance to dwellings and other sensitive receptors from the proposed development,
- (g) the separation of the site of the proposed development from sites designated as part of the Natura 2000 network and the nature of the connections between them,

- (h) the Environmental Impact Statement and further information submitted by the applicant,
- (i) the submissions made in the course of the planning application, and
- (j) the report of the Planning Inspector,



it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with national energy policy and with national and local planning policy on wind energy development and the protection of landscapes and scenic routes.

APPROPRIATE ASSESSMENT

After carrying out a screening exercise in relation to the potential for cumulative impacts of the developments on nearby Natura 2000 sites and, having regard to the nature and scale of the proposed development, the nature of the receiving environment, the Appropriate Assessment screening report submitted with the application and the submissions on file in relation to ecological matters, it is considered that the proposed development when taken in conjunction with the adjoining electrical substation compound An Bord Pleanála appeal reference number PL04.244439, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the site's conservation objectives. The Board adopted and agreed with the Inspector's assessment in respect of the screening exercise in relation to Appropriate Assessment.

ENVIRONMENTAL IMPACT ASSESSMENT

The Board adopted the Inspector's report with regard to his assessment of the Environmental Impact Statement submitted in relation to the proposed development. After carrying out an Environmental Impact Assessment of the proposed development, the Board concluded that when taken in conjunction with the information available on An Bord Pleanála appeal reference number PL04.244439, the proposed development would not have an unacceptable effect on the environment with respect to human beings, flora and fauna, soil, water, air, climate, material assets or cultural heritage, either directly or indirectly or in cumulation with other existing, permitted or proposed developments. In particular, the proposed development would not give rise to unacceptable effects on the residential amenities of houses in the vicinity due to noise or shadow flicker or otherwise, would not give rise to a significant impact on the wider landscape. It would give rise to a significant effect on the

landscape in the immediate vicinity of the site in conjunction with the existing windfarm at Garranareagh and the proposed substation at Barandivane. However, this effect would not be so negative or severe as to contravene the provisions of the development plan regarding the protection of high value landscapes and scenic routes and subject to the mitigation measures set out in the Environmental Impact Statement and the attached conditions the effects of the proposed development on the environment would be acceptable. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

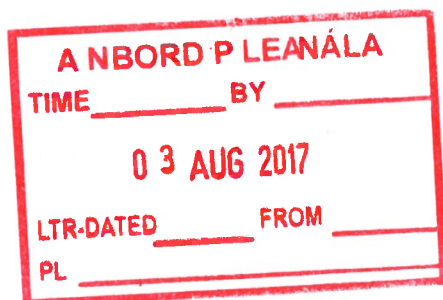
CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information received by the planning authority on the 26th day of May, 2015 and the clarifications on the 5th day of June, the 20th day of July and the 10th day of September 2015, except as may otherwise be required in order to comply with the following conditions. In particular, the mitigation measures identified in the Environmental Impact Statement and the further information shall be implemented in full by the developer. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The appropriate period of this permission during which the authorised development may be carried out shall be 10 years from the date of this order.

Reason: Having regard to the nature and extent of the proposed development, the planning history of the site, the Board considered that 10 years was reasonable given the nature and complexity of the development concerned.



3. The authorised windfarm shall operate for no more than 25 years from the date on which electricity is first exported from it or from the date of the expiry of the appropriate period, whichever is the sooner.

Reason: To clarify the nature of authorised development in accordance with the details submitted with the application.

4. Noise levels emanating from the authorised development following commissioning, when measured externally at noise-sensitive locations, shall not exceed the greater of 45dB(A) L90, 10 min or 5dB(A) above background levels between the hours of 0700 and 2300, or 43dB(A) L90, 10 min between 2300 and 0700 hours. All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

The noise mitigation measures described in the Environmental Impact Statement shall be implemented in full. Prior to the commencement of development, the developer shall agree a noise compliance monitoring programme for the operational windfarm with the planning authority. The operator shall maintain and make available for inspection by the planning authority.

Reason: In the interest of residential amenity.

5. Shadow flicker arising from the proposed development shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors. The measures to mitigate the impact of shadow flicker described in the Environmental Impact Statement shall be implemented to ensure that any turbines which might cause an exceedence of this limit are stilled. Prior to the commencement of the export of electricity from the proposed windfarm, the developer shall submit certification from a suitably qualified person who was not previously engaged in the construction of the windfarm that the equipment necessary to implement those measures has been properly installed and is functional.

Reason: In the interest of residential amenity.



6. Prior the commencement of the operation of the authorized windfarm, the developer shall inform the planning authority of the name and address of the person who shall occupy the site as its operator and who shall be responsible for the subsequent decommissioning of the windfarm and compliance with the various other conditions set out hereunder. The operator shall inform the planning authority if there is any change in these details and provide the name and address of any new operator at least three months before the latter person assumes responsibility for the windfarm. There shall only be a single operator of the entire authorised windfarm at any one time.

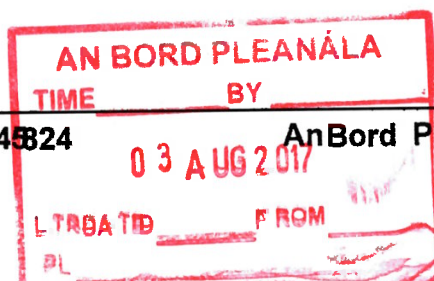
Reason: To facilitate the enforcement of the various conditions of this permission that pertains to the operation and decommissioning of the authorised development.

7. The site shall be landscaped and the visual impacts screened in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Prior to the commencement of development the developer shall submit for the written agreement of the planning authority a plan for the decommissioning of the authorised windfarm and the reinstatement of the site which shall provide for the removal of the turbines, towers, meteorological monitoring masts and all plant and equipment and the reinstatement of the turbine bases and hard standing areas, as well as a time frame for the completion of such works which shall not be greater than 12 months from the cessation of the operation of the windfarm.

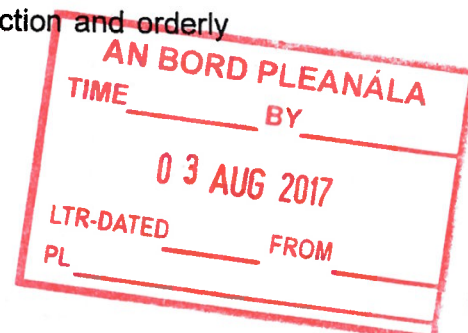
Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.



Reason: To ensure the satisfactory reinstatement of the site and to prevent an accumulation of obsolete functional structures in the interests of orderly development.

9. The construction of the proposed development shall be carried out in accordance with a Construction and Environment Management Plan prepared having regard to CIRIA Guidelines C848 which shall set out a construction method statement and timetable for all works and measures that are integral to the proposed development. The plan shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The Construction and Environment Management Plan shall include a comprehensive Construction-Stage Drainage Report and Management Plan with -
- (a) Details of the proposed water monitoring protocol and drainage inspection regime.
 - (b) Full details of measures for the control of drainage during and after construction (including tree-felling prior to construction), including the use of settlement ponds, swales and silt traps, and measures for the control of run-off from temporary spoil storage areas.
 - (c) Details of the nature of all materials used in constructing access tracks to the turbines.
 - (d) Full details of storage proposals for hazardous materials, cement leachate, hydrocarbons and other materials to be used during construction.
 - (e) Details of all aspects of the management of excess spoil, such that slope stability measures and prevention of water pollution are fully implemented. Soil, rock, peat and sand/gravel excavated during construction shall not be left stockpiled on site following completion of works.

Reason: In the interest of environmental protection and orderly development.



10. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with, the planning authority:-

- (i) a Transport Management Plan, including details of the road network/haulage routes and the vehicle types to be used to transport materials and parts on and off site,
- (ii) a condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a qualified engineer both before and after construction of the windfarm development. This survey shall include a schedule of required works to enable the haul routes and, in particular, regional and local roads in to cater for construction-related traffic. The extent and scope of the survey and the schedule of works shall be agreed with the planning authority prior to commencement of development,
- (iii) detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority,
- (iv) detailed arrangements for temporary traffic arrangements/controls on roads, and
- (v) a programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.

All works arising from the aforementioned arrangements shall be completed at the developer's expense, within 12 months of the cessation of each road's use as a haul route for the proposed development.

Reason: To protect the public road network and to clarify the extent of the permission in the interest of traffic safety and orderly development.

AN BORD PLEANÁLA	
TIME _____	BY _____
03 AUG 2017	
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11. Prior to the commencement of development, the developer shall lodge with the planning authority, a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: In the interest of road safety and the proper planning and sustainable development of the area.

12. The construction of the development shall not give rise to emissions of dust that exceed 350 milligrams per square metre per day, or emissions of noise that result in recorded levels at the facades of houses above 65dB(A)LAeq 1hour. The hours of work shall be restricted to between 0700 and 1900 Monday to Saturday and not at all on Sundays or public holidays, unless the prior written agreement of the planning authority has been obtained. Prior to the commencement of construction activities, the developer shall agree, in writing, with the planning authority a plan to control such emissions for the duration of the construction works. The plan shall include details of the method and locations dust monitoring, measures to be implemented to reduce emissions and actions to be taken in the event of complaints.

Reason: In the interest of environmental protection and orderly development.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and prepare a report on the results of such monitoring to be submitted to the planning authority and to the Department of Arts, Heritage and the Gaeltacht,



- (c) provide arrangements, acceptable to the planning authority, for the recording and removal of any archaeological material which the authority considers appropriate to remove. In particular, archaeological excavation shall be carried out at Areas of Archaeological Potential identified in the Environmental Impact Statement submitted.

A comprehensive report on the completed archaeological excavation shall be prepared and submitted to the planning authority and to the National Monuments Service within a period of six months or within such extended period as may be agreed with the planning authority.

Reason: In order to conserve the archaeological heritage of the site, it is considered reasonable that the developer should facilitate the preservation and protection or the preservation by record of any archaeological features or materials which may exist within it.

14. Cables within the site shall be laid underground. The wind turbines shall be geared to ensure that the blades rotate in the same direction. The colour and finishes of the turbines shall comply with the requirements of the planning authority.

Reason: In the interest of visual amenity.

15. Prior to commencement of development, details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority. Subsequently, the developer shall inform the planning authority and the Irish Aviation Authority of the coordinates of the 'as constructed' turbines and the highest point of the turbines.

Reason: In the interest of air traffic safety.

16. In the event that the proposed development causes interference with telecommunications signals in the area, effective measures shall be implemented to minimise such interference. Details of these measures, which shall be at the developer's expense, shall be submitted to, and agreed in writing with, the planning authority prior to commissioning of the turbines, and following consultation with the relevant authorities.

Reason: In the interest of orderly planning and residential amenity.

PL 04.2 45824

AN BORD PLEANÁLA
TIME _____ BY _____
03 AUG 2017
LTR-DATE _____ FROM _____
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AnBord Pleanála

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 8th day of July 2016.





JUDICIAL REVIEW NOTICE

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act 2000 (as amended)

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

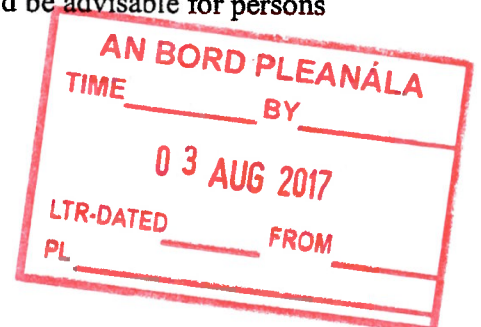
The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period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

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

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

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

Modified 30/11/2011



AN BORD PLEANÁLA
TIME _____ BY _____
03 AUG 2017
LTR-DATED _____ FROM _____
PL _____

FÓGRAFAOI A THBHREITHNIÚ BREITHIÚNACH

Ath bhréithniú breithiúnach ar chinneadh a rinne An Bord Pleanála faoi fhorálacha an Achta um Pleanáil agus Forbairt, 2000 (arna leasú)

Nuair is mian le duine agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird caithfear é sin a dhéanamh trí athbhreithniú breithiúnach amháin. Tá na forálacha chun agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird le fáil in ailt 50, 50A agus 50B san Acht um Pleanáil agus Forbairt, 2000 (arna ionadú le halt 13 den Acht um Pleanáil agus Forbairt (Bonneagar Straitéiseach) 2006, le halt 32 agus 33 den Acht um Pleanáil agus Forbairt (leasú), 2010 agus le halt 20 agus 21 den Acht Comhshaoil (Forálacha Ilghnéitheacha), 2011.)

Ní féidir ceistiú a dhéanamh in aghaidh cinnidh an Bhoird ach amháin trí iarratas ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúirteanna (I.R. Uimhir 15 de 1986). Faoi réir fho-alt 50(6) den Acht um Pleanáil agus Forbairt, 2000 déanfar iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach laistigh den tréimhse 8 seachtain den dáta a rinne an Bord an cinneadh nó laistigh d'aon síneadh ama a cheadaíonn an Ard-Chúirt faoi fho-alt 50(8). Tabhair faoi deara nuair atá athbhreithniú breithiúnach i gceist faoi alt 50 nach féidir ach bailíocht an chinnidh a cheistiú agus ní thugann an Chúirt aon chinneadh faoi fhiúntas na forbartha ó thaobh prionsabail pleanála cuí nó forbairt inchothaithe na háite nó éifeachtaí ar an timpeallacht. Tá sé leagtha síos in alt 50 nach ndeonófar cead d'athbhreithniú breithiúnach muna bhfuil an Chúirt sásta go bhfuil forais shubstaintiúla ann chun argóint a dhéanamh go bhfuil an cinneadh neamhbhailí nó gur ceart é a neamhniú agus go bhfuil suim shásúil ag an iarratasóir leis an ábhar i gceist san iarratas nó i gcásanna a bhaineann le measúnacht tionchair timpeallachta gur eagraíocht í an t-iarratasóir a chomhlíonann coinníollacha áirithe.

Tá forálacha in alt 50B mar gheall ar chostais maidir le himeachtaí san Ard-Chúirt i dtaobh athbhreithniú breithiúnach i gcásanna áirithe (lena n-áirítear imeachtaí faoi chinntí nó gníomhartha de bhun dlí de chuid an Stáit lena dtugtar éifeacht do na forálacha faoi rannpháirtíocht an phobail agus rochtain ar an gceartas atá leagtha amach i dTreoir 85/337/CEE i.e. an Treoir faoi mheasúnacht tionchair timpeallachta agus na forálacha i dTreoir 2001/42/CE maidir le héifeachtaí pleananna agus clár áirithe ar an timpeallacht a mheasúnú). Is í an fhoráil ghinearálta in imeachtaí lena mbaineann alt 50B ná go n-íocfaidh gach páirtí a chostais féin. Is féidir leis an gCúirt costais a bhronnadh i gcoinne aon pháirtí i gcásanna áirithe. Chomh maith le sin tá forálacha i bhfeidhm ionas gur féidir leis an gCúirt iomlán a chostas nó cuid díobh a bhronnadh ar an iarratasóir, in aghaidh fhreagróra nó fhógrapáirtí i gcásanna ina bhfaightear faoiseamh mar gheall ar gníomhú nó neamhfheidhm an fhreagróra nó an fhógrapáirtí.

Tá eolas ginearálta faoi athbhreithniú breithiúnach le fáil ar an suíomh idirlín www.citizensinformation.ie.

Séanadh: Tá an t-eolas thuas tugtha mar threoirlíne. Ní éilítear gur léirmhíniú dlí faoi na forálacha ábhartha atá ann agus dá mbeadh sé ar intinn ag éinne cás dlí a thógáil in aghaidh an Bhoird bheadh sé inmholta comhairle dlí a fháil ar dtús

Athbhreithnithe 30/11/2011

19. How long should it take to get a Disability Access Certificate/ Revised Disability Access Certificate?

Normally two months, but this may be extended by written agreement between the applicant and the building control authority, e.g. when the authority seeks further information on your application. Both certificates may be granted with or without conditions, or refused.

20. Can I appeal if I am refused a Disability Access Certificate/ Revised Disability Access Certificate?

Yes. An applicant for either certificate can appeal to An Bord Pleanála against a refusal within one month of the decision (details of the appeal fee are available from your local authority or An Bord Pleanála).

21. Do the Regulations have specific requirements for access for people with disabilities?

Yes. Part M of the Regulations aims to ensure that buildings other than dwellings are accessible and usable by people with disabilities. From 1 January 2001 all new dwellings must be visitable by people with disabilities. The requirements cover the access and use of buildings, provision of sanitary facilities, audience or spectator facilities.

Technical Guidance Document M 2000 - Access for People with Disabilities provides guidance on the provision of:

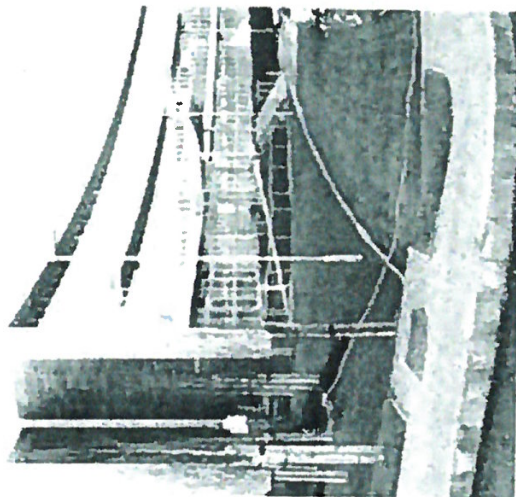
- ◆ at least one entrance accessible to wheelchair users;
- ◆ an internal layout which allows disabled people to circulate freely;
- ◆ a passenger lift in buildings above a certain size;
- ◆ a proportion of hotel guest bedrooms suitable for disabled people;
- ◆ wheelchair spaces in theatres, cinemas, concert halls and sports stadiums; and
- ◆ facilities for people with hearing impairments in theatres, cinemas, concert halls and places of religious worship.

Part M of the Regulations is currently under review and an updated Part M/TGD-M will be published in 2010

The law governing Building Regulations and procedures is primarily set out in the Building Control Acts, 1990, and 2007, the Building Regulations, 1997-2009 and the Building Control Regulations, 1997-2009. These may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2 (Phone 01-6476995/4).

Comhshaoil, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government

PL. 11 - Guide to the Building Control System



Building Standards Section,
Department of Environment, Heritage and Local Government, Custom House,
Dublin 1.

Lo Call 1890 20 20 21 or 01 888 2000
www.environ.ie

May 2010

This leaflet is a simple guide to understanding the building control system, which applies to the design and construction of new buildings, extensions and material alterations to and certain changes of use of existing buildings.

The leaflet is intended as a practical guide. It is not a definitive legal interpretation of building control law. For more information, you should consult your local building control authority.

1. What are the Building Regulations 1997-2009?

Building Regulations are a set of legal requirements for the design and construction of new buildings, extensions and material alterations to and certain changes of use of existing buildings.

Building Regulations provide for, in relation to buildings, the health, safety and welfare of people, conservation of fuel and energy, and access for people with disabilities. The Regulations can be downloaded from the Department's website www.environ.ie

The Consolidated Regulations came into force on 1 July, 1998, and replace the Building Regulations, 1991 (as amended).

2. How are the Regulations framed?

The Regulations comprise a set of legal requirements, expressed in simple functional statements.

Structure	Part A
Fire Safety	Part B
Site Preparation and Resistance to Moisture	Part C
Materials and Workmanship	Part D
Sound	Part E
Ventilation	Part F
Hygiene	Part G
Drainage & Waste Water Disposal	Part H
Heat Producing Appliances	Part J
Stairways, Ladders, Ramps and Guards	Part K
Conservation of Fuel and Energy	Part L
Access for People with Disabilities	Part M

Technical guidance on how to comply with these requirements are set out in the twelve separate Technical Guidance Documents (TGD's), which deal with each of the above areas. Amended TGD's can be downloaded from the Department's website www.environ.ie

The Regulations and related TGD's were amended as follows:

Parts M and D—2000; Part B—2006; Part G—2008; Part F—2002 & 2009; Part L (Dwellings) - 2007; Part L (Non-Dwellings) - 2008
TGD C—2004 & 2008

3. How do they affect me?

If you are having construction work carried out, the work must comply with Regulations. The Regulations do not apply to works consisting of repairs or renewal (as defined in the Regulations) except to any repair or renewal likely to affect the structural integrity of the building or building element being repaired or renewed.

Part L Regulations apply to renewal works to existing buildings involving the replacement of external doors, windows and rooflights. (S.I. 259 of 2008)

4. What if I fail to comply?

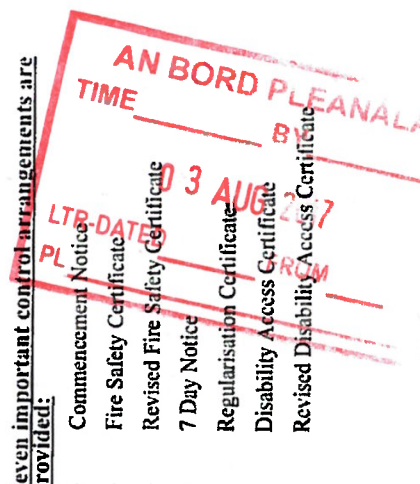
The primary responsibility for compliance rests with designers, builders and building owners. Building control authorities have powers to inspect design documents and buildings, as well as powers of enforcement and prosecution where breaches of the Regulations occur. There are heavy penalties, including fines and imprisonment, for breaches of the Regulations. In addition, when it comes to selling your property, you may have difficulties if you cannot satisfy the purchaser's solicitor that the requirements of the Regulations have been met.

5. What control arrangements are in place?

The Building Control Regulations, 1997-2009 supplement the basic system of enforcement referred to in Question 4 above.

Seven important control arrangements are provided:

- ◆ Commencement Notice
- ◆ Fire Safety Certificate
- ◆ Revised Fire Safety Certificate
- ◆ 7 Day Notice
- ◆ Regularisation Certificate
- ◆ Disability Access Certificate
- ◆ Revised Disability Access Certificate



6. What is a Commencement Notice?

A Commencement Notice is a notification to a building control authority that a person intends to carry out either works or a material change of use to which the Building Regulations apply.

The notice must be given to the authority not more than 28 days and not less than 14 days before commencement of works or a material change of use.

The notice must be accompanied by a Commencement Notice Fee, based on the number of buildings (details available from your local building control authority). Copies of a Commencement Notice can also be obtained from the building control authority.

Commencement Notices are required for the following:

- ◆ the erection of a building;
 - ◆ a material alteration or extension of a building;
 - ◆ a material change of use of a building;
 - ◆ works in connection with the material alteration (excluding minor works) of a shop, office or industrial building.
- A Commencement Notice is not required:
- ◆ for works or a change of use which are exempted development under the planning code, and for which a Fire Safety Certificate is not required; or
 - ◆ where a 7 Day Notice has been submitted.

Information on exempted development is given in other leaflets in this series, including PL 5 - Doing Work about the House, PL 6 - Agricultural and Farm Development, and PL 7 - Planning for the Business Person.

7. What is a Fire Safety Certificate?

A certificate granted by a building control authority certifies that the building or works, if constructed in accordance with the plans, documents and information submitted to the authority, would comply with the requirements of Part B of the Second Schedule to the Building Regulations, 1997-2009.

8. Do I need a Fire Safety Certificate?

With the exception of houses and certain agricultural buildings, a Fire Safety Certificate is required for all new buildings (including apartments and flats), as well as material changes of use and certain alterations and extensions to buildings. A Fire Safety Certificate must be obtained before work starts.

9. What is a revised Fire Safety Certificate?

A certificate granted by a building control authority which is required where:

- ◆ an application for a Fire Safety Certificate is made before grant of planning permission, if required by the subsequent permission, or
- ◆ where significant revision is made to the design or works of a building for which a Fire Safety Certificate has already been granted.

10. Where do I get a Fire Safety Certificate/ Revised Fire Safety Certificate?

You should apply to the local building control authority for either certificate, before you commence work or where significant revision is made to the design or works of a building for which a Fire Safety Certificate has already been granted. Application forms are available from the authority and should be submitted together with -

- ◆ plans, calculations and specifications for the works or building;
- ◆ details of the nature and extent of the proposed use and, where appropriate, of the existing use of the building;
- ◆ the appropriate fee, based on floor area (details available from your local authority).

Any application not including the above can be rejected by the authority as invalid.

11. How long should it take to get a Fire Safety Certificate/ Revised Fire Safety Certificate?

Normally two months, but this may be extended by written agreement between the applicant and the building control authority, e.g. when the authority seeks further information on your application. Both certificates may be granted with or without conditions, or refused.

12. Can I appeal if I am refused a Fire Safety Certificate/ Revised Fire Safety Certificate?

Yes. An applicant for a certificate can appeal to An Bord Pleanála against a refusal within one month of the decision (details of the appeal fee are available from your local authority or An Bord Pleanála).

13. What is a 7 Day Notice?

A 7 Day Notice is a notification to a building control authority that a person intends to commence work on the construction of a building before grant of the relevant Fire Safety Certificate.

A 7 Day Notice must be submitted not less than 7 days in advance of the commencement of works. The notice must be accompanied by:-

- ◆ a valid application for a Fire Safety Certificate from the applicant in the form specified for that purpose in the Third Schedule and accompanied by such plans and particulars as required under paragraphs (a) and (b) of article 13(2) of the Regulations.
- ◆ a 7 Day Notice Statutory Declaration in the form specified for that purpose in the Third Schedule, and
- ◆ such fee as may from time to time be prescribed for that purpose in Part V.

Do I require a Commencement Notice as well as a 7 Day Notice?

No. A Commencement Notice will not be required in respect of buildings where a 7 Day Notice has been submitted.

14. What is a Regularisation Certificate?

A certificate granted by a building control authority where a building has been commenced or completed without a Fire Safety Certificate, where such a certificate is required and certifies that the building work is in compliance with Part B of the Second Schedule to the Building Regulations 1997 to 2009.

The application must be accompanied by:-

- (i) drawings of the relevant works as they have been commenced or constructed, so as to enable the building control authority to assess whether the said works, as commenced or as constructed in accordance with the said drawings,

documents and information submitted, will comply or are in compliance, as appropriate, with the requirements of Part B of the Second Schedule to the Building Regulations.

- (ii) a Statutory Declaration from the applicant in the form specified for that purpose in the Third Schedule, and
- (iii) such fee as may from time to time be prescribed for that purpose in Part V.

15. What is a Disability Access Certificate?

A certificate granted by a building control authority which certifies compliance, at design stage of non-domestic buildings and apartment blocks, with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2009.

16. What is a Revised Disability Access Certificate?

A revised Disability Access Certificate (DAC) is a certificate granted by a building control authority in respect of works where significant revision is made to the design or works of a building for which a DAC has already been granted.

17. Do I need a Disability Access Certificate?

With the exception of houses and certain agricultural buildings, a Disability Access Certificate is required for all new non-domestic buildings (including apartments and flats), material alterations and extensions to buildings and certain changes of use.

18. Where do I get a Disability Access Certificate/ Revised Disability Access Certificate?

You should apply to the local building control authority for either certificate, before you commence work or where significant revision is made to the design or works of a building for which an Disability Access Certificate has already been granted.