

# Validation Checklist

Lodgement Number : **LDG-054820-22**  
Case Number: **ABP-313939-22**  
Customer: **Terence and Mary McCarthy**  
Lodgement Date: **29/06/2022 11:50:00**  
Validation Officer: **John Cannon**  
PA Name: **Waterford City and County Council**  
PA Reg Ref: **21772**  
Case Type: **Normal Planning Appeal PDA2000**  
Lodgement Type: **Appeal**



An  
Bord  
Pleanála

\* Multiple \*

3<sup>rd</sup> Grant

Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Not Applicable
Subject Matter available	Yes
Grounds	Yes
Sufficient Fee Received	Yes
Received On time	Yes
3rd Party Acknowledgement	Yes
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes
Valid Lodgement Channel	Yes

BPOIM to Appellant

Run at: 01/07/2022 09:20

Run by: John Cannon

# Lodgement Cover Sheet - LDG-054820-22

## Details

ABP-313939-22

Lodgement Date	29/06/2022
Customer	Terence and Mary McCarthy
Lodgement Channel	Post
Lodgement by Agent	No
Agent Name	
Correspondence Primarily Sent to	
Registered Post Reference	

## Categorisation

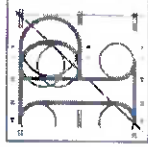
Lodgement Type	Appeal
Section	Processing

## Fee and Payments

Specified Body	No
Oral Hearing	No
Fee Calculation Method	System
Currency	Euro
Fee Value	0.00
Refund Amount	0.00

## Appeal

Run at: 29/06/2022 12:00  
Run by: Orlagh Kearney



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Lodgement ID	LDG-054820-22
Map ID	
Created By	Orlagh Kearney
Physical Items included	No
Generate Acknowledgement Letter	
Customer Ref. No.	
PA Reg Ref	

PA Name	Waterford City and County Council
Case Type (3rd Level Category)	

PA Ref: 21772

Observation/Objection Allowed?	
Payment	PMT-042610-22
Related Payment Details Record	PD-042513-22

Decision date: 21/6/22  
CID: 2916172

PA Case Details Manual	
PA Case Number	
PA Decision	
PA Decision Date	
Lodgement Deadline	
Development Description	
Development Address	

Appeals Type	
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Rockwillia  
Canty  
Cappagh  
Co Waterford  
X35DD25

The Secretary

An Bord Pleanála

64 Marlborough Street

Dublin 1

D01V902

26/06/2022

<b>AN BORD PLEANÁLA</b>	
LDG-	054820 - 22
ABP-	
29 JUN 2022 o.k	
Fee: €	220 Type: cheque
Time:	By: reg post

Re: Planning Ref 21/ 772 Roadstone Ltd at Cappagh Quarry Co Waterford - application for extension 18.2 hectares - Satellite Quarry at Canty, Cappagh together with extensive listed works at Ballykenedy, Kilgreaney Cappagh Co Waterford for up to 20 years.

A Chara,

I wish to make appeal to the above Planning Permission Granted on 02/06/2022 by Waterford City and County Council on the following grounds:

**1. Proximity of the proposed development to my residence**

Of its nature the quarrying operation is a vibrating, hammer-action, pounding constant noisy process to break up rock in the ground. To be more specific quarrying is drilling holes into solid rock using air compressors. Explosives are placed into these holes, the charge is ignited to break up the solid rock, this is the blasting process. Heavy plant: 50 tonne machinery with hammer action chisels then breaks down the large rocks for processing in a crushing machine which produces varying sizes and grades stone, aggregates and also lime. Now add in traffic noise to this mix of noisy plant and the dust that will be blown into the air – this will be our neighbour.

This quarrying activity with the resultant nuisance of ever-present dust, constant noise, vibration and traffic will occur **140m** from my residential property in the townland of Canty. The close proximity will impact disproportionately on my health and wellbeing regardless of the mitigating measures outlined in the Conditions listed in the intention to grant permission by the Local Authority. One of the rights enshrined in European

Convention of Human Rights in Article 8 guarantees the quiet enjoyment of my home and property, with this development my rights evaporate.

The proximity of quarrying to my home is such that I fear the effect has not been given due priority.

May I request that the Bord consider applying an operating distance from residences for this development extension.

## **2. Hours of Operation**

Condition Nos: 8 (a) Operating between 07.00 and 20.00 amount to 13 hours of operations on Monday to Friday each week in an otherwise quiet countryside rural setting.

8 (b) Rock breaking commencing at 08.00 to 18.00 amounts to 10 hours of vibrating din daily.

13(a) Blasting operations from 10.00 to 16.00 each weekday – these blasts, although notified, are startling when they occur.

I wish to question the protection afforded to residents and residential amenities and indeed properties with those extensive daily operating times.

Consideration was contained in Planners Report A. O'Sullivan where operating hours of 08.00 to 18.00 was recommended at page 63 Condition No. 11

Normal working hours in Ireland under Construction Industry Federation working hours rules is 39 hours weekly. Again my request to the Bord is to amend these extensive operating hours to offer some respite for the adjacent residents.

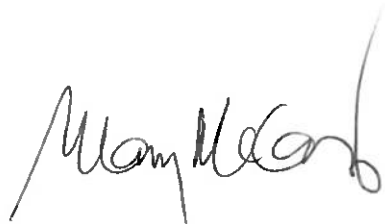
For clarity and further explanation of my concerns regarding the extension of quarrying at such close proximity of my residence I have attached the map clearly marking property. Also find the Submission on Planning application date 09/09/2021 and Comment on Request for Further Information date 07/05/2022.

Copy of Receipt from Waterford County & City Council as required for this appeal is attached.

Yours faithfully



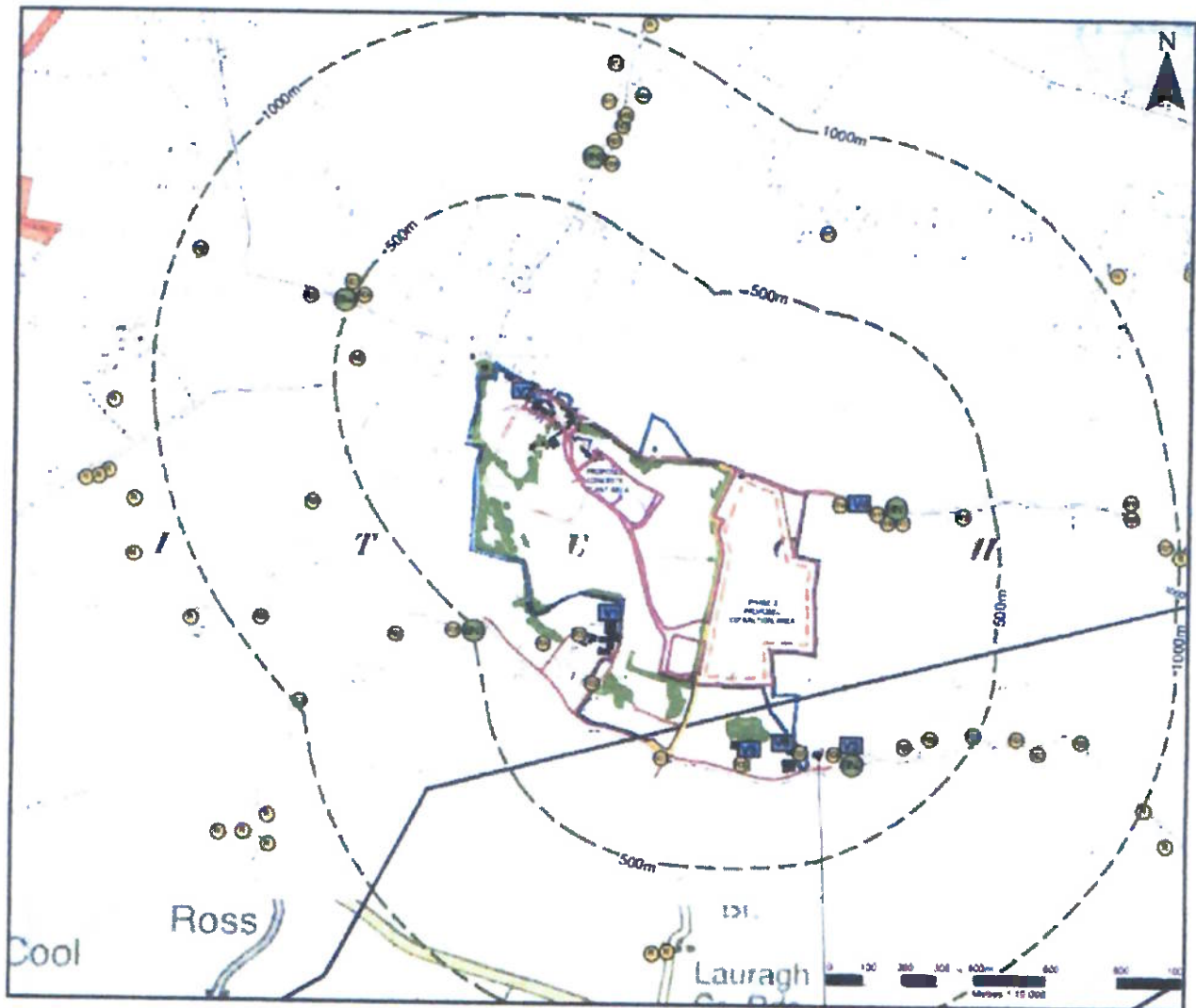
Terence & Mary McCarthy



## 4.0 BASELINE SURVEY RESULTS

An attended noise survey was carried out around the proposed development site at Cappagh Quarry on Thursday 16<sup>th</sup> December 2021 to sample the existing noise climate during the daytime across five monitoring locations, designated BN1 to BN5, which have been approximated as representative of the nearest NSRs, shown annotated in Figure 4-1.

Figure 4-1  
 Site Plan with Baseline Noise Monitoring Locations BN1 – BN5



The noise monitoring equipment used during the survey has been detailed in Table 4-1 overleaf.

T+M MCCARTHY

\* Printed from RFI Report





Comhairle Cathrach & Contae Phort Láirge  
Waterford City & County Council

ACKNOWLEDGEMENT of RECEIPT of SUBMISSION or OBSERVATION on a  
PLANNING APPLICATION

21/772

Terence McCarthy & Mary McCarthy  
Rockvilla  
Canty  
Co Waterford  
X35 DD25

16/09/2021

**Applicant:** Roadstone Ltd.,  
**Address:** SLR Consulting (Ireland) Ltd  
7 Dundrum Business Park  
Windy Arbour  
Dublin 14

**THIS IS AN IMPORTANT DOCUMENT**

**KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANALA IF YOU WISH TO APPEAL THE DECISION OF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE WHICH WILL BE ACCEPTED BY AN BORD PLEANALA THAT A SUBMISSION OR OBSERVATION HAS BEEN MADE TO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.**

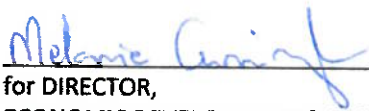
Dear Sir/Madam,

I wish to acknowledge receipt of submission/observation received from you on 10/09/2021 in connection with planning application by Roadstone Ltd., for the development will comprise the following on an application site of 18.2 hectares:-a satellite quarry to the east of Cappagh Quarry (previously permitted under Planning Permission 06/1599 and An Board Pleanala PI 24.225443 and the local access passageway which delineates its eastern boundary. The satellite quarry will extend to 13.6 hectares (33.6 acres) of which 9.7 hectares (24.0 acres) will be extracted: Construction of a 40m concrete tunnel underpass; Stripping of soils; Processing of excavated rock; Demolition of a derelict house; Temporary diversion of section of local access passageway; Temporary access gate and ramp. Demolition of concrete supports; Construction and operation of new concrete batching facility; Batching control office, and mixture storage shed; Closed loop concrete recycling facility; Aggregate storage hardstanding area; Continued use of established site infrastructure: Realignment of wall and demolitions; Restoration and extraction across satellite quarry area. Permission sought for up to 20 years. An EIAR and NIS will be submitted to the Planning Authority in connection with the application at Cappagh Quarry Ballykennedy, Kilgreany and Canty Townlands Cappagh.

I enclose, herewith, receipt in sum of €20.00 in respect of the appropriate fee.

The submission/ observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001, as amended, and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,

  
for DIRECTOR,  
ECONOMIC DEVELOPMENT & PLANNING SERVICES.

Waterford City and County Council, City Hall, The Mall, Waterford.

Comhairle Cathrach agus Contae Phort Láirge, Halla na Cathrach, An Meal, Port Láirge  
[contact@waterfordcouncil.ie](mailto:contact@waterfordcouncil.ie) Tel : 0761 10 20 20 [www.waterfordcouncil.ie](http://www.waterfordcouncil.ie)



Waterford City and County Council  
Planning Department  
1st Floor, Manapla Building  
The Mall

13/09/2021 09:18:05

Receipt No. PLAN/D/630351

Terence McCarthy & Mary McCarthy

FEE SUBMISSIONS ON PLAN APPLIC	20.00
GOODS	20.00
VAT Exempt/non-vatable	
0	
0	
0	
0	
0	
0	
0	
21/772	

Total 20.00 EUR

Tendered  
CASH 20.00

Change 0.00

Issued By: Claire M  
From: PLANNING  
Vat reg No 3263046AH





Rockvilla  
Canty  
Cappagh  
Co Waterford  
X35DD25  
09/09/2021

**Re: Planning Ref 21/ 772 Roadstone Ltd application for Satellite Quarry at Canty, Cappagh, construction and operation of new concrete batching facility at Ballykenedy, Kilgreaney Cappagh and all other extensive listed works.**

A Chara,

I wish to make the following observations regarding the above referenced planning application.

It is noted the application is for a 'Satellite' Quarry. Factually, I contend that this application is for a quarry development on a greenfield site.

Also mentionable is the acquiescence of the applicant regarding Kilgreaney Cave's registration as a National Monument.

#### **Previous non-compliance**

I wish to assert that following the refusal of Planning application 18/287 that Condition 25 of An Bord Pleanala PL .24.225443 regarding unauthorised development of ready-mix plant at Cappagh Quarry that the refusal Condition No 2 of Application 18/287 is now addressed in this application.

This application is lodged prior to compliance to the previous permission PD06/1599 and An Bord Pleanala PL.24.225443 conditions. Specifically Condition 24 (1) & (2), contrary to the proper planning and sustainable development of the area.

#### **Condition 24**

- (1) **Within 6 months from the date** of this order, a comprehensive proposal for restoration and aftercare of the entire site **shall** be submitted to the planning authority for agreement.
- (2) **Within 6 months** from the date of this order, a topographical survey carried out by an independent qualified surveyor approved by the planning authority shall be submitted to the planning authority for agreement. This survey shall show all areas excavated and restored.

A Site decommissioning and Restoration Plan could have a considerable Health Gain for the area, regrettably this opportunity has been overlooked. The total landholding of the applicant extends to 145 acres. The area subject to this application is 45 acres. The continued prospect of 100 acres of open quarry, with a phased restoration envisioned, according to this application 20 years thence will be a major landscape eyesore until 2042.

### **Public Consultation with local Residents.**

This planning application states intention to consult with local residents, this did not take place. There are consultations with Public Bodies and replies included. Local residents were ignored.

In all of the documents supplied to the Local Authority there are 14 pages directly relating to Population and Human Health (Chapter 4 EIAR). This proposed quarry is within 500m from my dwelling house, hereunder I list my concerns:

Nuisance in the form of dust resulting in poor air quality, continuous drilling noise and vibration, blasting noise and blast vibration, heavy vehicular traffic noise and dust, mobile crushing heavy plant operating noise, all within such close proximity.

In addition there is a real threat to potable drinking water supply from my private well. Lowering quarry floor levels will deplete current supply. There is no alternative water supply.

Continuous monitoring is not reassuring based on previous unauthorised development activity by John A Wood /Roadstone Ltd. The water table was breached, the ingress of water on the quarry floor was pumped into the Brickey River resulting in raised carboniferous water discharging into Dungarvan Harbour to the detriment of ecology.

Potential contamination to private water supply from residual chemicals used in blasting in addition to silica from the proposed concrete batching production facility in this important aquifer in the Brickey Valley area is a public health hazard. Groundwater monitoring reporting is a Public Health interest document which should be made circulated to residents effected.

Reference Henchy J. in *Hanrahan v Merch Sharp and Dohme* [1988] ILRM 629

“the defendants clearly brought on their land things which were likely to cause mischief if they escaped i.e dangerous chemical substances”

### **The Roadway**

This roadway is now an important local amenity and transport. It is used extensively by residents on both L2018 and L6072. During the 5km Covid-19 travel restriction periods of time this became an important amenity for family exercise. People travel on foot, horseback, mountain bike, car, and other motorised vehicles. Farm Machinery traverse the roadway to access land on both roads. Notwithstanding the Agreement of 29<sup>th</sup> April 1997 relocating the then existing Right of Way known as Kilgreany Boreen, following the destruction of part of this roadway for quarrying purposes, without the consent of local users which resulted in High Court proceedings to re-establish connection roadway between these roads.

Roadstone now propose to again threaten the existence of the connecting roadway. The safety of passage by local residents cannot be guaranteed during quarry activity. Fly rock, blasting emissions not to mention dust and traffic noise will diminish the amenity gain accrued.

Environmental Health HSE Waterford report 31/03/2021 specifically mention at Page 4 that the opinion of ‘local residents and landowners be sought specifically’ regarding this local passageway. We were not consulted..

It is ironic that St Declan's Pilgrim Way, established in 5<sup>th</sup> Century, is now open from Cashel to Ardmore, a particularly important section stretches from Mount Melleray to Ardmore by way of Knocknaskeagh, Cappagh. This Walkway lies approx. 2.5km West of Cappagh Quarry. It is not mentioned as a 'Sensitive Receptor'. The Tourism economy in Co Waterford is rebounding with the opening of the Waterford Greenway. Other walkways are proposed: (1) from Cappoquin to Mount Melleray via Glenshellane Forest Walk and (2) The Blueway stretching from Youghal to Lismore, both at advanced planning and funding stages.

## ECHR

### Article 8 of the European Convention for Human Rights

*Everyone has the right to respect for his private and family life, his home and his correspondence.*

Notwithstanding the provision of building materials by large commercial outfits, the residents should not be expected to put up with nuisance for the production of concrete from the satellite quarry. The commercial activity will generate a sizable income for the applicant to the detriment of the residents who will be denied the quiet enjoyment of home and family for the projected 20 year duration.

## Nuisance

**There are 18 dwellings within 500m of the application site boundary.** My home is one of these.

It was constructed in 1979. At this time quarrying activity was confined to 6 acres of "The Looby Lands" 2km from my home. The land remained in the ownership of this family. There was noise, dust, blasting activity and heavy machinery movement in the locality, but not adjacent to my dwelling house. It could not be reasonably predicted at that time that quarrying would continue eastwards through three farm holdings. The long term intention of extensive quarrying activity was not notified to local landholders. Where will the extent of Cappagh Quarry be eventually? Planning permissions were granted in the intervening years in the Cnty townland to the detriment it now transpires of the occupiers.

Planning permission conditions does not confer immunity or the right to ride roughshod over the property rights of adjoining landowning residents.

Having lived in the vicinity of Cappagh Quarry all my life I am aware of the nuisance created, I certainly do not want to live out my retirement 'putting up' with the utter nightmare it will be.

Nuisance as set out by Gannon J in *Halpin v Tara Mines* unreported, High Court February 16, 1976

**..that what an occupier of land is entitled to as against his neighbour is the comfortable and healthy enjoyment of the land to the degree that would be expected by an ordinary person whose requirements are objectively reasonable in all the particular circumstances..(my emphasis)**

This land is in agricultural use, the locality is rural, situated in the River Brickey Valley between the Deise Drumhills and the Comeragh Mountains. It is rolling countryside. Re-commencing intense quarrying, rock breaking, blasting and stone crushing will create penetrating and intense noise 6

days each week within 500m of my home. It will be an aggressive presence of an incessant nature which will permeate our lives. Retirement in my home will be a daily nightmare.

Charlton J in *Lanigan & others v Barry & others* [2008] IEHC 29 on industrial standards of measuring noise reported in *Irish Times* 10 March 2008

“People experience a nuisance, whatever it is, based on human factors. In the case of noise, factors such as tone, unexpectedness and irritant factor, which cannot be measured by scientific instruments are very important”

The peace and quiet of my home is jeopardised entirely. Notwithstanding the presence of horses and dairy herds locally, the effects on residents is what matters here. It is reasonable to expect that the level of noise and the air quality in the countryside to be quieter and cleaner than a built up or industrial zones.

The value of my property has instantly diminished, it cannot be sold now that this application has been lodged. The rental apartment attached to my dwelling will not generate retirement income as planned. My options to re-locate are nil if this application is successful.

Equitable principles would guarantee that I continue my present position where I can enjoy living on my property in peace and comfort for the remainder of my life without the nuisance issues listed in the EIAR of noise, dust, vibration, traffic, the fear of losing my water supply and all the contingent threats to human health associated with quarrying.

The diminution of the human aspect of this planning application is disingenuous, all material human nuisances are minimised or totally discounted as ‘minimal’, ‘no effect’ or ‘no significant effect’

#### **Operating hours.**

Existing operating hours are stated as 07.00 to 20.00 Monday to Friday and 07.00 to 14.00 each Saturday, this is an unreasonable extent of working hours. Working business hours, to the Construction Industry Federation standard are 39 hrs weekly, generally 08.00 to 17.00 Monday to Thursday and 08.00 to 16.00 on Friday. The total of 72 hrs weekly is excessive in this rural location.

#### **Conclusion**

In conclusion the refusal condition No 1 for application File No 18/287 remains valid. I submit that the applicant has failed to “robustly demonstrate that the proposed satellite quarry application would have detrimental environmental effects on adjoining land uses particularly agricultural and residential”.

I find myself once again, to my dismay, being in a position of defending my right to the quiet enjoyment of my home and family life.

Is mise le meas,

Terence McCarthy

Mary McCarthy



Rockvilla  
Canty  
Cappagh  
Co Waterford  
X35DD25

Waterford City & County Council,  
Planning Dept  
First Floor Menapia Building  
The Mall  
Waterford  
07/05/2022

**Re: Planning Ref 21/ 772 Roadstone Ltd application for Satellite Quarry at Canty, Cappagh, construction and operation of new concrete batching facility at Ballykennedy, Kilgreaney Cappagh and all other extensive listed works response to Further Information Request.**

A Chara,

Hereunder please find comments on Further Information submission by Roadstone Ltd dated 31<sup>st</sup> March 2022 by SLR Consulting Ireland.

1. **Noise:** The development proposed will be located in a "low background" noise environment. Mitigation proposed based on the supplementary noise assessment report concluding that "the proposed activities at the quarry will not significantly exceed existing background noise levels" while also requesting that EPA guidelines for the extractive industry of 55dB(A) limits not be amended, is utterly contradictory. A resident next to Cappagh Quarry can vouch that the noise is constant: it reverberates the atmosphere and ground while quarrying is active. The use of 'current ambient noise levels' to produce an assessment report based on 'sound predictions derived using proprietary software-based noise models' is a pointless exercise as the basis does not reflect the reality.

The EIAR noise monitoring table display spanning the years 2017 to 2021 when the quarry was at its lowest production activity is really not pertinent. The upscaling of activity to production of 400,000 tonnes per annum would indicate that the table should be amended to project the effect of increased noise levels.

Using intermittent background farm machinery and road traffic noise in the countryside as a comparator is not a practicable contrast of equals. The imposition of quarrying activities: blasting, rock breaking, rock crushing, heavy machinery noise emissions and traffic within the quarry cannot be classed as '**not significantly**' exceeding existing background noise.

The effect will be detrimental to residents quality of home and family life. How we perceive noise is the measure of the effect to us humans.

2. **Waste Management:** This application title states at (i) a **satellite quarry** development. The current status of the area is farmland it is a separate Folio No. therefore the question arises if this is a new planning application to change the current use.

This convenient application for a satellite quarry where topsoil is used to restore the existing quarry floor of lands at planning ref: 06/1599 and An Bord Pleanála PL24.25443 seems to overlook the planning condition therein to have submitted a restoration plan within six months of grant of permission in 2007. Perhaps compliance with this permission is required prior to this application submission for consideration by the local authority.

3. **Public Consultation:** Following the numerous submissions to the Local Authority from the residents it was incumbent on Roadstone Ltd to undertake a public consultation meeting to comply with planning regulations. So now, at a very late stage, at the request of the Local Authority in an RFI request, it was scheduled. Again the residents are side-lined until the omission could prove a stumbling block to progress for vast commercial gain.

The reply contains one page of justification and excuses for not undertaking this planning requirement before dealing with the issues raised.

The commitments listed at 3(a) to (i) at pages 9 & 10 will require legal agreement with each resident to be binding. Clarity is required on the following:

Item (b) requires Sunday to be included.

Item (d) Each individual resident should be permitted to nominate an engineering company to conduct the structural condition survey. This is to ensure independence and fairness. The normal protocol in these situations is that fees be paid by the instigator, the Applicant in this instance. Two copies are issued one for the resident and one for the applicant company. Furthermore, definition of the phrase "residential properties closest" to the proposed quarry, is required to be specific. The Feedback from Public Consultation Exercise document attached states 'within 500m' – there shall be no ambiguity.

Item (e) the remedies to deal with fugitive dust emissions and the term 'a timely manner' require listing and definition as does 'at a later date', again the precise time requires commission to paper.

Item (i) this last sentence requires the addition of 'immediately with the provision of alternative potable water supply to the house until the supply is restored'.

Historical dealings with Roadstone Ltd, previously John A Wood Ltd, require that commitments require contractual agreement.

## **Property Values in the Feedback from Public Consultation Exercise document**

### **3.1 Realignment of Roadway**

As the quarry proposed in this application will be 140m from my property, the placing of the roadway at the boundary of the formerly O'Brien lands at Canty would add increased distance of approx. 100m from the proposed quarry. Keeping the roadway in the current position with a deep 'culvert', which in reality will be a tunnel or a road bridge, for heavy plant and machinery may prove a danger for the public use. The scale of traffic to accommodate the volume of activity with heavy plant and machinery will be considerable. The reasons for outlined for retention in the current location by Roadstone representatives are vague and elusive. Perhaps it is a ploy to discourage the road users so that subsequently it will cease to be a burden on the title.

### **3.8 Property Values**

The impact of quarrying activity nuisance on adjoining land and property owners recorded extensively. Roadstone is one the largest operators in extractive industries in this country. The imposition of such a major commercial force in the quiet Brickey Valley area based on the 'truism that resources must be worked where they occur' is subject to regulation, in the interest of proper planning and development. The attitude portrayed in this paragraph consign residents to minnows in Roadstone's grand scheme. Failure to comment of market values of property further displays absolute disregard for the people living in the Valley. My residence was built 40 years ago when Cappagh Quarry was on the Looby Lands. The idea that it could cut down through the farmland adjoining to 100D was inconceivable then. The onus must fall to Roadstone to accommodate, facilitate and mitigate the imposition of quarrying for the existing property owners. Equitable principals dictate that we are left in the state we were before this proposed quarry is opened. If there is no legal imperative to arrive at this position equity shall prevail.

I reside within 140m of the land subject to this application and am well aware and can deduce the nuisance that will occur: that the quality of life and the appearance of my home will change dramatically. It will no longer be a peaceful safe haven for rest and recovery from the working week. There will be constant dust noise and vibration. Regardless of management and mitigation by the applicant the property will devalue. For Roadstone to resile from comment on property values is blatant avoidance. Consultation with residents was avoided until requested by the local authority for in order to adjudicate on the planning permission application.

### **3.9 Biodiversity/Archaeology**

This paragraph is a totally misconstrued representation of fact. What was stated repeatedly is that it appears to the residents that the animal kingdom and archaeology have higher priority with Roadstone than the people who live nearby. Of course it is welcomed that an area is earmarked for biodiversity, however again is prompted at the request of the Local Authority in the RFI.

It was also requested at the public consultation meeting and in follow up email to Mr Pat Gibney Roadstone that a plan be provided for community benefit in the Restoration of the existing open quarry area. This is omitted from the public consultation report. Working the resources has left an extensive 85 acre open quarry area which is a blot in the landscape in the Valley. There has been no 'give' to the locality to counterbalance the disruption to the people or the countryside. Roadstone is a wealthy international company with extensive resources, a gesture would make a start to "responsible neighbour" behaviour.

There are many examples in the UK of quarry land restoration, there is a good example at Penrhyn in North Wales which hosts the longest Zip Wire in the world between the cliff faces extending the width of the spent quarry. A full week experience which includes corporate and family activities is available.

It remains to be seen if the Authority will request full compliance for the Applicant to produce a comprehensive Restoration Plan for the existing quarry lands before commencement of this new proposal.

### **Conclusion**

To conclude, once again the 'responsible neighbour' has not delivered on their 'social responsibilities', in fact Roadstone avoided interaction with the adjoining property owners and engagement with the people in the community until the Local Authority requested they do so, when it seemed that it may jeopardise the success of the planning permission application.

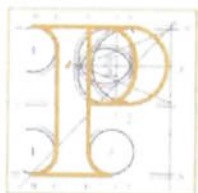
I request that the Local Authority take the stated comments on the RFI submission into account.

Yours sincerely

Terence & Mary McCarthy



01 8588100

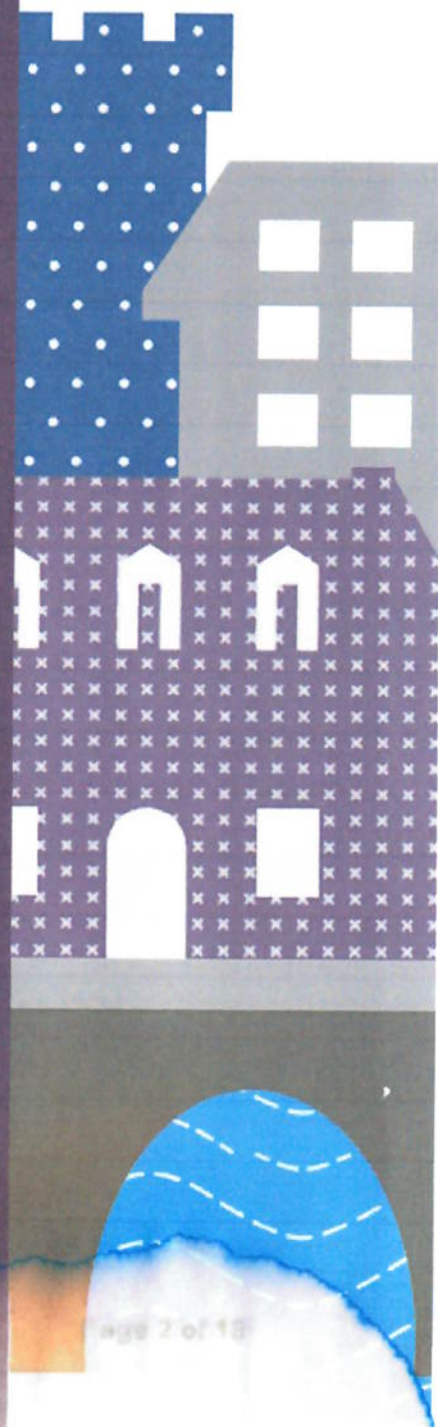


An  
Bord  
Pleanála

~~DD~~ Ref 21/772

## Making a Planning Appeal

April 2019





## LEARNER'S COMMENTS

## About this guide

This guide provides information on how to make a valid planning appeal. You can send us your planning appeal using the Planning Appeal Form. You can find it on our website [www.pleanala.ie](http://www.pleanala.ie) or by contacting our office. You can also make an appeal by writing to us.

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

### Data Protection

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

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

You should note that the personal data you supply will be circulated to other relevant parties and made available in the public domain about any matter before An Bord Pleanála. This use complies with the General Data Protection Regulation (GDPR).

NALA has awarded this document its Plain English Mark





## Contents

<b>About this guide</b> .....	<b>2</b>
<b>Contents</b> .....	<b>3</b>
<b>Terms</b> .....	<b>4</b>
<b>What is an appeal?</b> .....	<b>7</b>
<b>Who can appeal?</b> .....	<b>7</b>
<b>Making an appeal</b> .....	<b>8</b>
How do I make an appeal? .....	8
How much time do I have to make an appeal? .....	8
How much does an appeal cost? .....	9
How can I pay for my appeal? .....	9
What do I include in my appeal? .....	9
Where do I send or deliver my appeal? .....	11
Can I get a receipt if I deliver my appeal in person? .....	11
Will I receive a receipt if I send my appeal by post? .....	11
What is an oral hearing? .....	12
How do I ask for an oral hearing? .....	12
<b>After you make your appeal</b> .....	<b>13</b>
Have I made a valid or invalid appeal? .....	13
What do I need to do next if my appeal is valid? .....	13
What happens if my appeal is invalid? .....	13
Why is my appeal invalid? .....	14
What does An Bord Pleanála do next? .....	14
What is the time limit for deciding appeals? .....	15
Can I withdraw my appeal? .....	15
The applicant has withdrawn their application. Will the Board still consider my appeal? .....	15
Can the Board dismiss an appeal? .....	15
<b>Frequently asked questions</b> .....	<b>16</b>
<b>Legislation</b> .....	<b>18</b>
<b>Contact us</b> .....	<b>18</b>





## Terms

Some terms we use in this guide are:

<b>Acknowledgement</b>	A document issued by a planning authority which shows you made a submission to that planning authority.
<b>Act</b>	A law that has been passed by the Oireachtas (parliament) and approved by the President.
<b>Agent</b>	A person who acts on your behalf in an appeal, application or referral.
<b>Appeal</b>	A review of the original decision on a planning application made by a planning authority.
<b>Appellant</b>	An individual or organisation who makes an appeal (See also <b>First Party, Third Party</b> ).
<b>Applicant</b>	An individual or organisation who makes a planning application to a planning authority (See also <b>First Party</b> ).
<b>Board</b>	The Board of An Bord Pleanála.
<b>Environmental Impact Assessment Report (EIAR)</b>	A document prepared by an applicant that assesses the likely significant effects on the environment of a proposed development.



<b>First party</b>	The person who applies for planning permission for a proposed development (See also <b>Applicant</b> ).
<b>Inspector</b>	A technical member of staff who makes site inspections, prepares a report on the planning case and makes a recommendation to the Board to grant or refuse permission.
<b>Invalid</b>	Does not meet all of the statutory requirements needed by law and regulations to be considered a case.
<b>Leave to appeal</b>	Requesting the permission of the Board to make an appeal as: 1: you did not make a submission on an application; <b>and</b> 2: the permission conditions attached to a grant on that application now impact land which: a) you have an interest in; <b>and</b> b) is beside the proposed development site.
<b>Observer, Observation</b>	Any person, other than the applicant, planning authority or an appellant, who comments on an appeal (See also <b>Submission</b> ).
<b>Oral hearing</b>	An oral hearing is a public meeting to allow relevant issues in a case to be discussed and examined.
<b>Planning authority</b>	The local authority – county council, city council, or county and city council – responsible for planning in its area.



<b>Regulations</b>	A law or rules made by an <b>Act</b> or sometimes a Government minister.
<b>Statutory</b>	Something that is decided, set up or controlled by statute law. Statute law is a law passed by parliament.
<b>Statutory requirements</b>	Requirements needed by law for a case to be valid.
<b>Submission</b>	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.)
<b>Third party</b>	A person appealing the decision of a planning authority on a proposed development other than the person who made the original planning application (See also <b>Appellant</b> ).
<b>Valid</b>	Meets all statutory requirements needed by law and regulations to be considered as a case.
<b>We, our, us</b>	An Bord Pleanála.
<b>You</b>	You as a person, company, group, organisation or State authority.





## What is an appeal?

Generally, any person wanting to carry out development must apply for planning permission to their local county council, city council or city and county council (the planning authority). The **planning authority** will make a decision on the application either to grant or to refuse planning permission. You can appeal this decision to An Bord Pleanála.

## Who can appeal?

You can make an appeal if either of the two descriptions below apply to you:

1. You made an application to the planning authority for a proposed development.

You are making a **first party** appeal. A first party can appeal:

- the planning authority's decision to refuse permission;
- any conditions the planning authority attaches to a grant of permission decision;
- how a planning authority applies the terms of a Development Contribution Scheme or a Supplementary Development Contribution Scheme to conditions in a grant of permission. You can also appeal how the planning authority has applied a special contribution condition. These are Section 48 or Section 49 appeals.

2. You made a submission to the planning authority on a proposed development.

You are making a **third party** appeal. A third party can appeal:

- the decision of the planning authority;
- any conditions the planning authority attaches to a grant of permission decision.

If you think that neither of the two descriptions above apply to you, there are certain other limited situations when you can make an appeal. You can find further details about these situations and who can make appeals in the factsheet "What can I appeal?" or by contacting us. You may also be able to take part by making an observation on a valid appeal.

1. *Introduction*

The purpose of this study is to investigate the effects of the proposed system on the performance of the participants. The study was conducted in a controlled environment, and the results are presented in the following sections. The first section describes the experimental setup, including the participants, the tasks, and the measures of performance. The second section presents the results of the study, and the third section discusses the implications of the findings.

2. *Method*

The study was conducted with a group of 20 participants, who were all students at the University of [Name]. The participants were divided into two groups, each of 10 participants. The first group was the control group, and the second group was the experimental group. The control group performed the tasks without the proposed system, and the experimental group performed the tasks with the proposed system.

The tasks were performed in a controlled environment, and the results were recorded. The measures of performance were the time taken to complete the tasks and the number of errors made. The results of the study are presented in the following sections. The first section describes the experimental setup, including the participants, the tasks, and the measures of performance. The second section presents the results of the study, and the third section discusses the implications of the findings.

The results of the study show that the proposed system had a significant effect on the performance of the participants. The experimental group performed the tasks faster and with fewer errors than the control group. This suggests that the proposed system is effective in improving performance.

The implications of the findings are that the proposed system can be used to improve performance in a variety of tasks. This could be useful in a number of different contexts, such as in the workplace or in education. The study also suggests that the proposed system is easy to use and does not require a lot of training. This makes it a promising tool for improving performance in a wide range of tasks.

## Making an appeal

### How do I make an appeal?

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

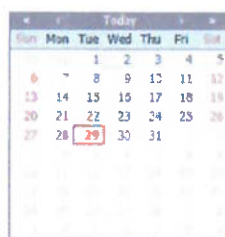
### How much time do I have to make an appeal?

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

If you have been granted leave to appeal by the Board, there is a different time limit to make your appeal.

#### Example

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



**You have four weeks to make your appeal before deadline.**

Your last date to make an appeal is on or before 5.30pm on **Tuesday 29 March** (four weeks later).

Our website has a calendar calculator to help you work out the last day for making your appeal. There are different rules about time limits between December 24 and January 1 (inclusive) which can affect the last date.



### How much does an appeal cost?

There are many fee types. Please see our Fees and Charges Guide to find out the fee for your appeal, or contact us for help. You **must** make sure that the correct fee is included with the appeal.

### How can I pay for my appeal?

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

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

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

### What do I include in my appeal?

You should carefully prepare your grounds of appeal (reasons and arguments) and any documents you wish to include. When you have made your appeal, you **cannot** make any further submissions unless we specifically ask you for them. Please note that An Bord Pleanála **cannot** consider non-planning issues.





To make a complete and valid appeal:

✓	You must put your appeal in writing (either typed or handwritten).
✓	You must clearly state your own name and address. If a planning agent is acting for you, the agent must clearly state their own name and address as well as your name and address.
✓	<p>You must give us enough details to allow us to easily identify the application you wish to appeal. Examples of the details we accept are:</p> <ul style="list-style-type: none"><li>• a copy of the planning authority decision, <b>or</b></li><li>• name of the planning authority and the planning register reference number (for example: Ballytown City Council, 23719/18)</li></ul>
✓	<p>You must provide us with:</p> <ul style="list-style-type: none"><li>• your planning grounds of appeal (reasons and arguments) for wanting the planning authority's decision changed, <b>and</b></li><li>• any items you wish to support your grounds of appeal.</li></ul>
✓	If you are a third party, you must include the written <b>acknowledgement</b> given to you by the planning authority to confirm it received your submission or observation at planning application stage. We can also accept a copy of the acknowledgement.
✓	You must pay the correct fee.
✓	You must make your appeal within 4 weeks from the date that the planning authority has made its decision.

A checklist to help you make your appeal is available on our website or by contacting us.



### Where do I send or deliver my appeal?

You must:

- post it to:

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



or

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



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

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

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

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

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

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



### **What is an oral hearing?**

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

### **How do I ask for an oral hearing?**

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

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

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

1

## **After you make your appeal**

### **Have I made a valid or invalid appeal?**

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

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

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

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

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

- comments or observations you may be invited to give on something we have received,
- the Board's decision to hold an oral hearing,
- details about an oral hearing,
- when the Board hopes to make a decision if it is not possible within the 18 weeks' time period.

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

### **What happens if my appeal is invalid?**

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





### Why is my appeal invalid?

Some reasons why appeals are invalid are:

- the appeal does not fully meet all the statutory requirements as described in this guide,
- the appeal was posted in the letterbox of our office or emailed to us,
- the appeal is about something that we have no responsibility for.

Further details about invalid appeals are available on our website.

### What does An Bord Pleanála do next?

An Bord Pleanála sends a copy of your appeal to:

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

Participants have **4 weeks** from the date we write our letter to submit their comments if they so wish. We cannot consider any comments that are late. We may write to case participants to ask for further submissions or information.

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

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



### **What is the time limit for deciding appeals?**

The Board has a statutory objective to try to decide cases within 18 weeks. The 18-week period includes any request periods mentioned previously. For example, if we ask you to comment on a submission and ask you to reply within 4 weeks, this 4-week period is part of the overall 18-week appeal period.

If the Board cannot make a decision within 18 weeks, we will write to participants in the appeal to update them.

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

### **Can I withdraw my appeal?**

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

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

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

### **Can the Board dismiss an appeal?**

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

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



## Frequently asked questions

### Can I make the appeal online?

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

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

No. We cannot accept fee payments over the telephone.

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

No. To make a valid appeal, you need to send all the documents required and the appropriate fee. They **must** arrive together before the close of the 4-week period.

### Can I make an anonymous appeal?

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

### Can you accept a late appeal?

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

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

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

### Can I get proof that I made an appeal?

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



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

Your appeal is invalid as you may have posted it on time, but we did not receive it within 4 weeks from the date of the decision of the planning authority.

### **What happens if my appeal is invalid?**

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

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

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

### **Can I make my views known without appealing?**

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

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

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

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

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

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

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

and Christmas.

It is a very beautiful and interesting book, and I am sure that you will find it very useful.

I am sure that you will find it very useful.

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## Legislation

The laws and regulations referred to in this document are:

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

## Contact us

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

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

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14