

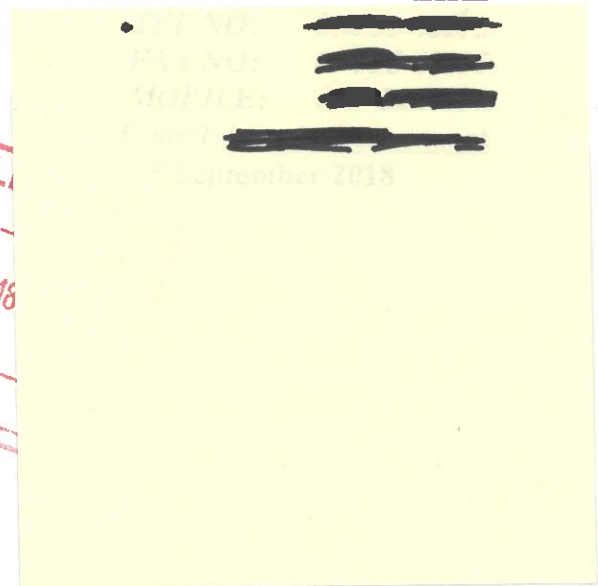


Partners:

Michael Gillespie LLB
Geraldine Boyle BA (Hons)

GILLESPIE BOYLE
SOLICITORS
BEACHSIDE
BRAADE
KINCASSLAGH
CO DONEGAL
EIRE

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



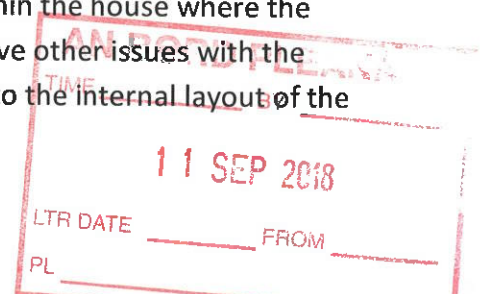
RE: GOUNDS OF APPEAL

I asked the local authority for a Declaration that the use of part of my dwelling house at Beachside, Braade, Kincasslagh, County Donegal, as a Solicitors office, is an exempted development under Section 4(1)(J) of the Planning and Development Act 2000. The application was refused by Donegal County Council who issued a Declaration that this was not exempted development dated 16th August 2018. The specific grounds of appeal are as follows:-

1. The office use is contained within the actual house for a purpose incidental to the use of the house by myself and my husband. My husband and I are both Solicitors. We each use one room in the house as our office. I would submit that a professional person is entitled to have a home office.
2. We employ a part-time receptionist who only works Monday to Friday from 10.00am to 1.00pm at a desk/computer located between our offices in the area marked reception/cloakroom on the ground floor drawing. This desk/computer is also used

by our children in relation to school projects, homework etc in the afternoons/evenings.

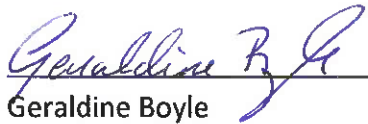
3. The primary use of the building is as the principal residence of myself and my husband and five children aged 20, 18, 14, 12 and 6.
4. As can be seen from the ground floor layout, the floor area of my personal office is 29.7 sq metres and the floor area of Michael's office is 28.6 sq metres. I would suggest that this is not significant in relation to the total ground floor area of 207.8 sq. metres and the first floor area of 196.7 sq metres, which means that the office use is approximately one seventh in terms of floor area of the whole house. Obviously, my husband and I store personal papers in these office areas as well as business papers.
5. It should also be noted that much of our work is done by post, telephone and email. We would not normally see more than 2-3 clients per week and there are many weeks when no clients require to visit the office. We also have a facility for seeing clients in Gweedore at the offices of Eamon McBride Auctioneer, where we have a room allocated for our use.
6. Any additional traffic generated by 2-3 clients at most visiting our office per week is miniscule, having regard to the fact that our house is located beside the beach car park and Donegal Airport, which has a regular flow of visitors.
7. The use of a small part of my dwelling house as office for my husband and myself is not in any way harmful to the amenity of the area and provides a useful local and sustainable service for the local community.
8. I am not seeking a general declaration that use as a Solicitors office is an exempted development but simply a Declaration that the use of part of the dwelling house by my husband and I personally in respect of our profession as Solicitors is an exempted development. I would ask an Bord Pleanala to make such a Declaration restricting this to personal professional use by my husband and myself. We have no intention of expanding the practice and it is in effect a small part-time sustainable home business, which is incidental to the enjoyment of the house by my husband and myself.
9. The reasons for refusal of a Declaration that the office use is exempted development given by the County Council do not address the core issue of whether my husband and I, as practising Solicitors, are entitled to each have a home office in our home. It was always my understanding that a professional person is entitled to have a home office. Office areas were shown on our original ground floor plans and although the original designated office is now a bedroom and my husband's office is what was originally a bedroom/music room and my office was an integral garage area, the Declaration sought under Section 5 is in relation to the principle of personal home office use and not the details of the specific location within the house where the office use occurs. We will be separately seeking to resolve other issues with the local Planning Authority in relation to minor alterations to the internal layout of the



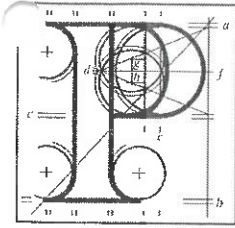
house, which may or may not require Retention Permission. However, the current Declaration which is sought and which is the subject of the present Appeal/Application for Review is the Declaration that my husband and myself are entitled to use part of the house not exceeding 1/7th of the total floor space as home offices for the personal use of my husband and myself in connection with our profession as Solicitors. This is the Declaration which I now seek from An Bord Pleanala. The reason for refusal of the Declaration of exempted development given by Donegal County Council is misconceived as it deals with the internal layout and structure of the house rather than the net issue of whether I and my husband as professional persons are entitled to practice our profession in part of the house.

We will be happy to provide any further information which you may require.

Yours sincerely,


Geraldine Boyle





Planning Appeal Check List

(Please read notes overleaf before completing)

1. The appeal must be in writing (e.g. not made by electronic means).
2. State the

name of the appellant
(not care of agent)

GERALDINE BOYLE

address of the
appellant
(not care of agent)

BEACHSIDE
BRADE
KINCASSLAGH
COUNTY DONEGAL

3. If an agent is involved, state the

name of the agent

GILLESPIE BOYLE
SOLICITORS

address of the agent

BEACHSIDE
BRADE
KINCASSLAGH
COUNTY DONEGAL

AN BORD PLEANÁLA	
TIME _____	BY _____
11 SEP 2018	
LTR DATE _____	FROM _____
PL _____	

4. State the Subject Matter of the Appeal*

Brief description of the development

HOME OFFICE FOR SELF
AND HUSBAND RE OUR PROFESSION
AS SOLICITORS IN OUR DWELLINGHOUSE

Location of the development

BEACHSIDE
BRAND
KINCASSLAGH
COUNTY DUBLIN

Name of planning authority

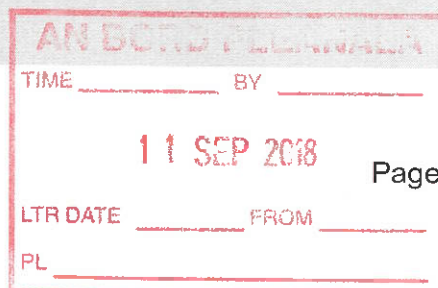
DUBLIN COUNTY COUNCIL

Planning authority register reference number

S5 18/29

* Alternatively, enclose a copy of the decision of the planning authority as the statement of the Subject Matter of the Appeal.

5. Attach, in full, the grounds of appeal and the reasons, considerations and arguments on which they are based.
6. Attach the acknowledgement by the planning authority of receipt of your submission or observations to that authority in respect of the planning application, the subject of this appeal. (Not applicable where the appellant is the applicant).
7. Enclose/Pay the correct fee for the appeal and, if requesting an oral hearing of same, the fee for that request see "[Guide to Fees Payable](#)" under heading of Making an Appeal on Home Page of this website for current fees.
8. Ensure that the appeal is received by the Board in the **correct manner** and **in time**.



A format similar to pages one and two may also be used where a person is making submissions or observations on an appeal in accordance with section 130 of the Planning and Development Act 2000, as amended. Substitute 'observer' for 'appellant' and 'submission/observation' for 'appeal' at each reference. Item 6 and that part of 7 concerning an oral hearing request are not applicable to the making of submissions or observations

Notes (See Check List beginning on page one)

1. Rules for Making Appeals

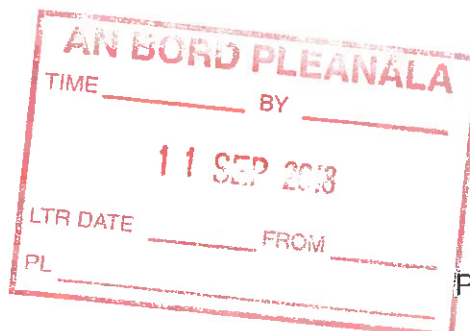
You are advised to check the latest version of "A Guide to Making a Planning Appeal" issued by the Board. It is available from the Board, telephone (01) 858 8100 and on our website www.pleanala.ie. It may also be available from your planning authority.

A significant number of appeals are invalid because they are not made in accordance with the statutory rules.

2. Appeal Fees

You are advised to check the appropriate fee for making an appeal. Different fees apply depending on the nature of the appeal. A leaflet "Guide to Fees payable to the Board" is available from the Board, telephone (01) 858 8100 and on our website www.pleanala.ie. It may also be available from your planning authority. Note that appeal fees may change from time to time.

A significant number of appeals are invalid either because no fee or an incorrect fee is included.



3. Time Limits

The time limit for making an appeal is, except where the appeal is made following a successful application for leave to appeal, four weeks beginning on the date of the planning authority decision (not the day it is sent or received). Day one is the day the planning authority decision is made. For example, if the decision of a planning authority is made on **Wednesday 2nd** of a month, the last day for receipt of the appeal is **Tuesday 29th** of the same month, NOT Wednesday 30th. There are special rules where the last day falls on a day the Board's offices are closed or where the appeal period falls over the Christmas/New Year period. See calendar facility on the Board's home page.

A significant number of appeals are invalid because they are late – sometimes, just one day late.

4. Delivering the Appeal

Send the appeal by post to The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1, D01 V902 or, deliver it by hand, to an employee of the Board (not a security person), during office hours (9.15 a.m. to 5.30 p.m.) on Monday to Friday, so that the appeal reaches the Board by the last day for making an appeal.

Do not place the appeal in the Board's letterbox. A significant number of appeals are invalid because they are incorrectly delivered.

5. Completeness

The appeal must be fully complete from the start. You are not permitted to submit any part of it at a later time, even within the time limit. Neither are you permitted to clarify, elaborate or make further submissions either for the



purposes of complying with the rules for making an appeal or otherwise, unless invited by the Board.

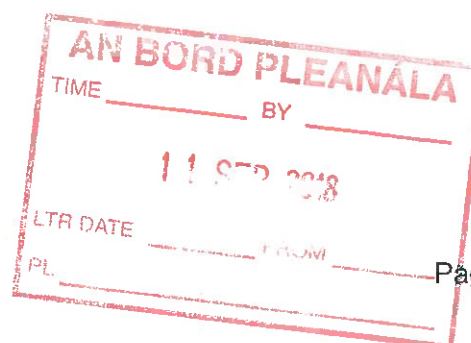
This document is issued as an aid to making a valid planning appeal to the Board. It may be used as a 'cover page' in making such an appeal but there is no legal or other requirement to do so. The document should be read in conjunction with the latest versions of the Board's publications "Guide to Making a Planning Appeal" and "Guide to Fees payable to the Board".

The guidance given in those leaflets and in this document also applies generally to the making of submissions and observations by 'observers' under section 130 of the 2000 Planning Act. A significant number of submissions and observations by 'observers' are also invalid because the appropriate rules are not observed.

This document does not purport to be a legal interpretation of the law in relation to making a planning appeal – you should consult the appropriate legislation, including sections 37 and 127 of the Planning and Development Act 2000 for the statutory rules governing the making of appeals. (Section 130 for 'observers')

An appeal or a submission or observation on an appeal that is not made strictly in accordance with the statutory rules will be invalid. The Board has no discretion to relax or vary the rules. The onus is on YOU to meet all the legal requirements at the time you make the appeal/submission/observation.

Last updated: February 2017



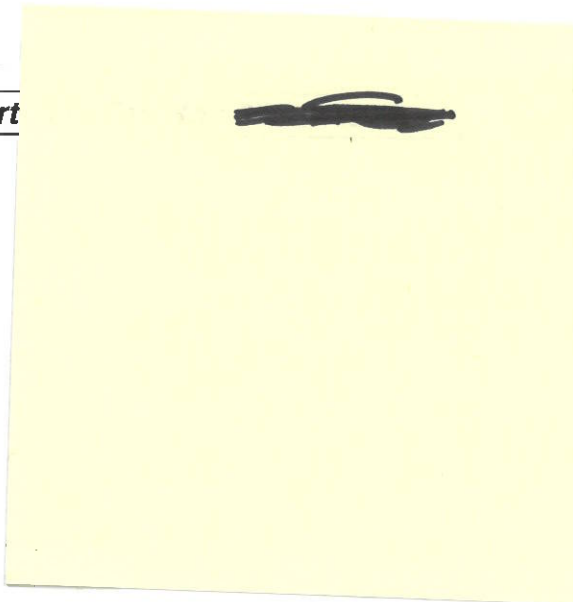


N.B.: Planning Depart

Ref. No: S5 18/29

16th August, 2018

Geraldine Boyle
Beachside
Braade
Kincasslagh
Letterkenny PO
Co Donegal



Re: Section 5 – Ref.No: S518/29 refers.

A Chara,

I refer to your request received on 20th July, 2018 under Section 5 of the Planning and Development Act, 2000 (as amended). Same has now been decided and I now issue to you herewith the Council's Declaration thereon. You are now advised that, in accordance with Section 5 (3) (a) of the Planning & Development Act, 2000 (as amended) where a Declaration is issued, any person issued with such a Declaration may, on payment to An Bord Pleanala of such fee as may be prescribed, refer a Declaration for review by the Board within 4 weeks of the date of issuing of the Declaration.

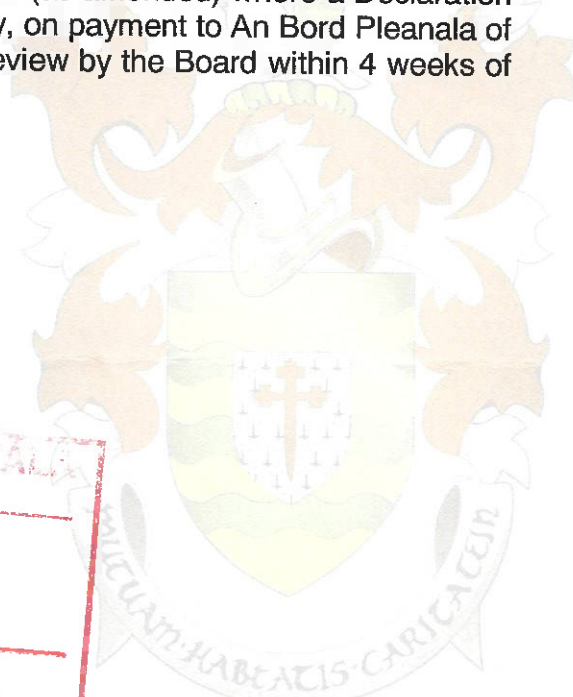
Mise, le meas,

S. Boyle

for Senior Executive Planner
Planning Services
/mp

01 13/9/18

AN BORD PLEANALA
TIME _____ BY _____
11 SEP 2018
LTR DATE _____ FROM _____
PL _____



**Planning and Development Acts, 2000 – 2017
(Declaration and Referral on Development and Exempted Development)**

DECLARATION

Chief Executive's Order No: 2018PH1621

Reference No: S5 18/29

Name of Requester: Geraldine Boyle
Beachside
Braade
Kincasslagh
Letterkenny PO
Co Donegal

Summarised Description of development the subject matter of request:

The use of part of the dwelling house as a Solicitors Office/Practice

Location of Development:

Beachside, Braade, Kincasslagh, Co Donegal.

IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE

IS Development

IS NOT Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The Planning Authority in considering this referral, had regard particularly to:

Section 3, 4 and 177U of the Planning and Development Act, 2000 (as varied), and Article 6, 9 & 10(1) and Schedule 2 of the Planning & Development Regulations 2001 (as amended).

And concluded that:

The proposal is development within the meaning of the Planning and Development Act, 2000 (as amended) and is NOT exempted development as it constitutes an unauthorised development which was not approved as part of the plans and particulars of parent planning permission Plan.Reg.No. 12/50343 and does not otherwise come within the scope of the exempted development provisions of the Planning and Development Act, 2000 (as amended) or the Planning and Development Regulations, 2001 (as amended).

DATED THIS 16th DAY OF AUGUST, 2018

G. Boyle

**FOR SENIOR EXECUTIVE PLANNER
PLANNING SERVICES**



