



**SIMON CLEAR & ASSOCIATES
PLANNING AND DEVELOPMENT
CONSULTANTS**

The Secretary,
An Bord Pleanala,
64 Marlborough Street,
Dublin 1

8 January 2019

Re. Your Ref. ABP-303109-18

Dear Secretary,

I refer to your letter dated 3rd December 2018 addressed to H&R Chartered Homes Limited, enclosing a Referral made by Michael Brennan in respect of a Section 5 Declaration made by Wexford County Council under Ref. EXD00729. On behalf of the H&R Chartered Homes Limited I wish to make this submission.

At the outset it should be noted that the subject matter of An Bord Pleanala's letter is incorrectly stated as '*24 no. fully serviced dwelling houses, Crosstown, Ardcavan, Co. Wexford*'. For the sake of clarity it should be noted that the Referral does not relate to the residential application currently on appeal (Ref. 302310), which is due to be decided in late January 19. This error caused considerable distress and confusion for my client, who was of the understandable impression that the letter related to the residential development. The confusion was confounded by the fact that Wexford County Council had not notified my client of the Declaration, despite being legally obligated to do so.

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The Referrer is now engaged in 3 separate planning processes – the third party appeal, this Referral and has made a complaint to the planning authority under enforcement procedures. These processes must be dealt with separately by the relevant authorities with the appropriate jurisdiction.

It is submitted that the Referrer has sought to conflate these separate processes by referencing and indeed submitting part of the planning application¹ and part of the Planning Authority's assessment² of the planning application. The Planning Authority's assessment of a separate planning application is not a valid ground for Referral of a Section 5 Declaration and should be dismissed by An Bord Pleanála.

We also wish to observe that the Section 5 procedure as administered by Wexford County Council is fundamentally flawed. Section 5(2)(a) required the Planning Authority to notify the owner of the Declaration decision under Ref EXD00729. As commented in 'The Irish Planning Law Factbook', *the decision on a declaration sought by a third party must be notified to the owner and occupier, otherwise they would be denied the opportunity to refer the decision for review to An Bord Pleanála.*

My clients were not notified of the Declaration decision and were denied their statutory rights.

It is requested that the Referral be dismissed, as the correct and legal procedures have not been followed, to the detriment of my client's interests.

Yours sincerely,

Darran Quaile

¹ Site Specific Flood Risk Assessment for Planning Ref. 20180713

² Recommendation of Senior Executive Scientist and Appropriate Assessment Screening for Planning Ref. 20180713

