

AN BORD PLEANALA REFERRAL

Appeal by : Roisin Curley

Property Owner : Roisin Curley

Address : 3, Gilford Avenue, Sandymount, Dublin 4, D04 DH29

Agent / Architect : Colm Moore, Clancy Moore Architects

Address : 66 Meath Street, Dublin 8, D08 DK64

Planning Authority : Dublin City Council

Planning Reference : 0135/21

Decision Order : P3443

Documents enclosed;

- Referral Form
- Notification to Ms.Roisin Curley re. submission of Section 5 application
- Copy of the planning authority's decision
- Letter outlining grounds of objection
- Ground floor plan outlining extent of proposed extension
- Appropriate fee

AN BORD PLEANÁLA	
LDG-	<u>040186-21</u>
ABP-	_____
25 MAY 2021	
Fee: €	<u>220</u> Type: <u>CASH</u>
Time:	<u>9.20</u> By: <u>hand</u>

Clancy Moore
66 Meath Street
Dublin 8
D08 DK64

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

21.05.21

RE: Planning Ref: 0135/21, Decision Order P3443
Property Address: No. 3, Gilford Avenue, Sandymount, Dublin 4, D04 DH29

AN BORD PLEANALA REFERRAL

To Whom It May Concern,

I am writing on behalf of my client, Roisin Curley, with regards to the split decision order P3443 issued by Dublin City Council on 14.05.21 in relation to her property at No.3 Gilford Avenue, Sandymount, Dublin 4, D04 DH29.

With regards to the Section 5 application made by Ms. Michele Barrett, we object to the decision to refuse exemption to the proposed extension on the grounds that the information provided by Ms. Barrett to DCC was factually incorrect.

The applicant incorrectly stated in the application that the extension exceeds 40 sqm and is therefore not in compliance with Class 1 of the Planning & Development Act.

I can confirm that the floor area of the proposed extension is in fact 36.9 sqm and is therefore in compliance with Class 1 of the Planning & Development Act. Please find enclosed a plan of the extension highlighting the relevant dimensions and areas which are as built measurements.

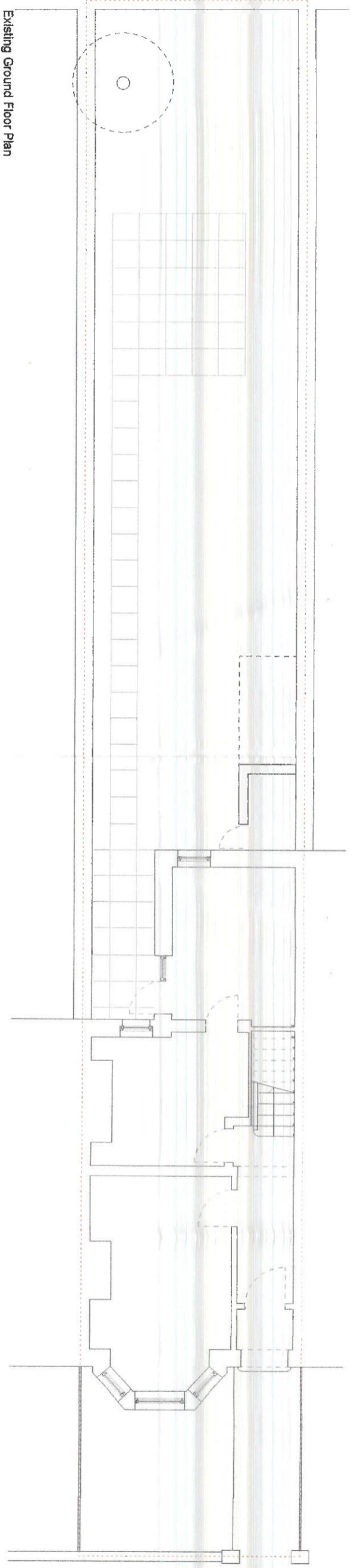
I would ask that this Decision Order to refuse exemption is redacted based on the information enclosed.

Please do not hesitate to contact me if you require any further information.

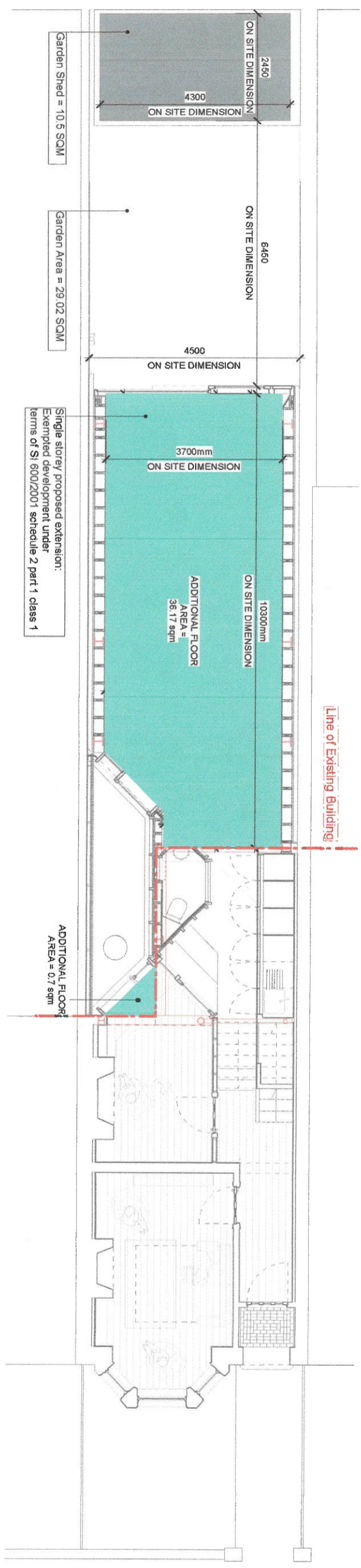
Kind regards,



Colm Moore MRIA
Clancy Moore Architects



Existing Ground Floor Plan



Proposed Ground Floor Plan

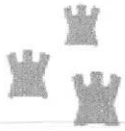
CONSTRUCTION

PROJECT REF123 - NO. 3 GILFORD AVE
MAY 2021

GF EXTENSION - EXEMPTION

CLANCY MOORE ARCHITECTS

www.clancymoore.com · info@clancymoore.com · +353 1 7093006
66 Meath Street, Dublin 8, D08 DK64
Copyright Clancy Moore. For information only. Advise of any discrepancies noted.



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Planning and Property Development Department,
Dublin City Council, Block 4, Floor 0, Civic Offices, Wood Quay, Dublin 8

An Roinn Pleanála & Forbairt Maoin, Comhairle Cathrach Bhaile Átha Cliath
Bloc 4, Urlár 0, Oifigí na Cathrach, An Ché Adhmad, Baile Átha Cliath 8

T: (01) 222 2149 / F: (01) 222 2675

Ms. Rosine Curley,
3, Gilford Avenue,
Sandymount,
Dublin 4.

22/04/2021

Application No.	EXPP 0135/21
Applicant	Michele Barrett
Registration Date	22/04/2021
Location	3, Gilford Avenue, Sandymount, Dublin 4.

Re; 2 no. extensions to the rear of No 3 Gilford Avenue under construction.

Dear Madam,

Please be advised that an application for a Declaration under Section 5 of the Planning and Development Act 2000 (as amended) was submitted to the planning authority on 14/04/2021.

It is noted that you may have an interest in the subject site to which this application relates. The planning authority would like to provide you as the owner/occupier of the site, the opportunity to submit views or comments on the application.

Any comments or views you may wish to submit shall be submitted by close of business on 11th May 2021.

A full copy of the application is available for viewing at the Public Counter, Dublin City Council, Planning Department, Monday to Friday, 9.00a.m. – 4.30p.m. (By appointment only - phone 01 222 3114)

Should you require any clarity on this matter please do not hesitate to contact me at the number above.

Yours sincerely,

A M Bourke,
For Executive Manager

An Roinn Pleanála & Forbairt Maoinne, Bloc 4, Uirlár 3, Oifigi na
Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3,
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. planning@dublincity.ie

Date 19-May-2021

Michele Barrett
1 Gilford Avenue,
Sandymount,
Dublin 4.

Application No.	0135/21
Registration Date	22-Apr-2021
Decision Date	14-May-2021
Decision Order No	P3443
Location	3, Gilford Avenue, Sandymount, Dublin 4
Proposal	EXPP; 2. No extensions to rear of 3 Gilford Ave are under construction. No planning permission has been sought from Dublin City Council and the development as constructed to date does not comply with Exempted Development under the Act.
Applicant	Michele Barrett

Dear Sir/Madam

With reference to the above proposal submitted by you, you are hereby notified that the Planning Authority in pursuance of the powers conferred on it by the Planning & Development Acts 2000 (as amended) has decided to **GRANT EXEMPTION** for:

The shed structure.

subject to the conditions specified in Schedule 1,

SCHEDULE 1 CONDITIONS AND REASONS

It is considered that the works proposed is considered to be exempted development as it complies with class 3 of the Planning and Development Regulations:

and to **REFUSE EXEMPTION** for :

The construction of an extension which the applicant states exceeds 40sq.m.

for the reasons set out in Schedule 2

An Roinn Pleanála & Forbairt Maóine, Bloc 4, Uirlár 3, Oifigi na
Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

Planning & Property Development Department, Block 4, Floor 3,
Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. planning@dublincity.ie

Date 19-May-2021

SCHEDULE 2 REASONS

It is considered that the works proposed would require planning permission as it exceeds the conditions and limitations of Class 1 of the Planning and Development:

Signed on behalf of Dublin City Council

for Assistant Chief Executive

Dublin City Council
Declaration and Referral on Development and Exempted Development

Article 5 of Planning & Development Act 2000

To:	Deputy Dublin City Planning Officer
From:	Eileen Buck, Senior Executive Planner
Subject:	3 Gifford Avenue, Sandymount, Dublin 4
Date:	11/05/21

File Ref. 0135/21

Zoning

Dublin City Development Plan 2017- 2022

The site is zoned Z1, 'To protect, provide and improve residential amenities'.

Proposal

The applicant wishes to clarify whether planning permission is required to,

2 extensions to the rear of No. 3 Gifford Avenue are under construction. No planning permission has been sought from Dublin City Council and the development as constructed to date does not comply with 'Exempted Development' under the Act. Attached is a detailed report with photographs.

Planning Legislation

Planning and Development Regulations 2001 to 2020, under Schedule 2, Article 6

CLASS I

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed

extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

CLASS 3

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

1. No such structure shall be constructed, erected or placed forward of the front wall of a house.

2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.

3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.

5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

Planning History

None for site

Appraisal

The third party submitting the section 5 states that the non-compliant issue is that in order to build the extension a brick shed at the rear of the house was demolished. This brick shed they note was built by the previous owners in the 1980's and is therefore not allowable as an additional area when calculating the allowable exempted area.

The area of the extension as constructed measures 10.6x4.2m = 44.5sq.m. This they state exceeds the 40sq.m as laid out in the regulations which have been identified above. The note that in addition to the extension the applicants propose a further building of 15sq.m on the site. The construction of this building complies with the current building regulations for a habitable room with 150mm of wall

insulation to comply with Part L TGD. They are therefore contending that this brings the figure to 59.5sq.m. It should be noted that class 3 allows for a structure/shed within a garden in line with the conditions and limitations laid out above. They note that the shed/structure will not be used for ancillary purposes to the main house. But if they do then the property is allowed avail of this, with the conditions and limitations set out. The issue of the shed having a certain degree of insulation is not taken into consideration.

In the submission the maximum height of the extension is 5.8m and exceeds the height of the adjacent 2 storey extension at No. 1, it is noted. The applicant therefore contends that this is a two storey structure and should therefore should be set back by 2m at the party wall. It should be noted that under class 4(c) it states:

The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

This application for a section 5 Declaration has been assessed in accordance with the Planning and Development Act 2000 to 2010 and the Regulations made thereunder.

Recommendation

Accordingly, it is considered that the works proposed i.e. the construction of an extension which the applicant states exceeds 40sq.m would require planning permission as it exceeds the conditions and limitations of class 1 of the Planning and Development and therefore is refused but the shed structure is considered to be exempt development as it complies with class 3 of the Planning and Development Regulations and would therefore be granted.

Eileen Buck,
Senior Executive Planner.

Planning Referral Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Roisin Curley

(b) Address

No. 3, Gilford Avenue, Sandymount, Dublin 4,
D04 DH29

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Colm Moore

(b) Agent's address

Clancy Moore, 66 Meath Street, Dublin 8 , D08 DK64

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

**You (the appellant) at
the address in Part 1**

**The agent at the address
in Part 2**



Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Dublin City Council

(b) Planning authority register reference number

(for example: 18/0123)

Planning Ref: 0135/21

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

No. 3, Gilford Avenue, Sandymount, Dublin 4, D04 DH29

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

With regards to the Section 5 application made by Ms. Michele Barrett, we object to the decision to refuse exemption to the proposed extension on the grounds that the information provided by Ms. Barrett to DCC was factually incorrect. The applicant incorrectly stated in the application that the extension exceeds 40 sqm and is therefore not in compliance with Class 1 of the Planning & Development Act. We can confirm that the floor area of the proposed extension is in fact 36.9 sqm and is therefore in compliance with Class 1 of the Planning & Development Act. Please find enclosed a plan of the extension highlighting the relevant dimensions and areas which are as built measurements.

Supporting material

6. If you wish you can include supporting materials with your appeal.
Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

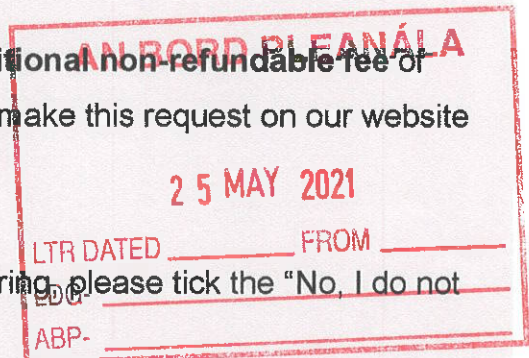
8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

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

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.



Yes, I wish to request an oral hearing

No, I do not wish to request an oral hearing

NALA has awarded this document its Plain English Mark

Last updated: April 2019.

