

COMHAIRLE CATHRACH CHORCAÍ - CORK CITY COUNCIL

PLANNING AND DEVELOPMENT ACT 2000

NOTIFICATION OF DECISION TO GRANT

Permission

SUBJECT TO CONDITIONS UNDER SECTION 34 OF THE ACT OF 2000

To: Michael McGregor
C/O Frank Good
Gaggin
Bandon
Co. Cork

Ref No.: 17/37661
Application Received: 01/12/2017

In pursuance of the powers conferred upon them by the above mentioned Acts, Cork City Council have by order dated **05/02/2018** decided to **GRANT Permission** for the development of land, namely: Permission is sought for demolition of derelict house and erection of a new dwellinghouse at : 197, Blarney Street, Cork

In accordance with plans and particulars submitted on 01/12/2017.

Subject to the (10 No.) conditions and reasons set out in the attached Schedule.

If there is no appeal against said decision, a grant of **Permission** in accordance with the decision, will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanála (see footnote).

It should be noted that until a grant of **Permission** has been issued, the development in question is **NOT AUTHORISED**.

Signed on behalf of Cork City Council



John Whelan
Senior Staff Officer
Date: 05/02/2018

NB: See Notes Overleaf



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Planning Ref. No.: 17/37661

First Schedule

Having regard to the nature, location and context of the site and surrounding area, the policies and objectives of the Cork City Development Plan 2015-2021 and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would not seriously injure the residential or visual amenities of the area, and is in accordance with the proper planning and sustainable development of the area.

**Schedule of Conditions attached to
Planning Permission issued by Cork
City Council – Ref.: 17/37661**

Second Schedule

No.	Condition	Reason
1	The development shall be carried out in accordance with the plans and particulars submitted to the planning authority on 01/12/2017, except where otherwise altered or amended by conditions contained in this Schedule.	To define the scope of the permission, and to enable the planning authority to check the proposed development when completed, in the interests of proper planning and sustainable development.
2	All drainage shall be separated throughout. All paved and roofed areas shall discharge to the storm drainage system. All toilets, urinals, wash hand basins, sinks, showers and baths shall discharge to the foul drainage system.	In the interest of public health.
3	The soakaways shall be designed in accordance with BRE Digest 365 or similar. The soakways shall have the capacity to handle all storm flows arising within a 10 year return period. Details of the soakaways shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development.	In the interest of public health.
4	<p>a) Construction waste such as wood, metal, and cardboard, shall be segregated and submitted for recycling. Waste Gypsum shall be segregated and delivered to an appropriate facility. Hazardous construction waste such as paint, lubricants, oil, lighting, wood preservative shall be segregated and disposed of at an authorised facility.</p> <p>b) All asbestos arising from the demolition section of this development shall be disposed of in accordance with the procedures of Cork City Council.</p> <p>(c) The developer shall engage the services of a specialist asbestos consultant to carry out an asbestos survey and report. The developer shall submit the report to the local authority prior to commencement of the development. the report is to be in standard format, to have a risk</p>	in the interest of orderly management and disposal of waste

	<p>assessment, and to recommend remedial measures.</p> <p>c) The developer shall ensure that any waste moved off site during site clearance operations or construction works is removed by authorised waste contractors only. The material shall be taken only to sites authorised by a local authority or the Environmental Protection Agency.</p> <p>(d) The developer shall consult with Cork City Council in regard to the proposed off site disposal of excavated soil or other construction waste and shall submit details of proposed disposal sites along with estimated quantities of waste prior to commencement of construction activities.</p> <p>(e) Prior to commencement of the development the developer shall submit a plan to Cork City Council detailing existing waste items/quantities on site. This plan shall, include quantities, type of waste, approved waste contractors to remove waste as well as final destination of waste all receipts for this waste shall be submitted to Cork City Council upon completion.</p>	
5	<p>a) The developer shall constitute a waste management company or structure for dealing with waste arising in the development. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement, full details of a waste management structure proposed for the development. Details shall include proposals for waste reduction, reuse, recycling, storage, as well as who will manage the waste, present it for collection, and dispose of it.</p> <p>(b) All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the Planning Authority. In any case no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on site</p>	In the interest of orderly management and disposal of waste

	<p>arrangements shall be made to the satisfaction of the Planning Authority for the storage of recyclable materials prior to collection. The developer shall ensure that the site and its environs are maintained at all times in a clean and tidy condition. The applicant shall maintain a register of waste material disposed from the site and records shall be made available for inspection by the Local Authority at all reasonable times.</p> <p>c) The developer shall provide within the curtilage of the site designated vented waste storage space of sufficient capacity to accommodate the segregated storage of municipal waste, food waste and mixed dry recyclables. It will be necessary in all cases to be able to present the wheeled bins at a convenient location for refuse collection. Details of waste storage and presentation shall be agreed with the Planning Authority.</p>	
6	<p>(a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 " Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control."</p>	<p>In order to ensure a satisfactory standard of development, in the interests of residential amenity.</p>
7	<p>a) Working hours during site clearance and construction shall be restricted to 0800-1800 hours on Mondays to Fridays and to 0800-1600 hours on Saturdays. Activities outside these hours shall require the prior approval of the Planning Authority.</p>	<p>In the interests of residential amenity.</p>
8	<p>(a) The Developer shall ensure that no appreciable negative environmental impacts occur because of the construction works associated with this development. The developer shall give particular attention to dust, noise, odour, litter, dirt on public roads, surface water runoff, spillage of fuel oils. Operations liable to produce dust shall be screened and dust suppression devices used where appropriate. Fuel oils and other chemicals shall be adequately banded, with bands having volumes of at least 110% of the volumes of fuel stored.</p>	<p>In the interests of orderly management and disposal of waste.</p>

9	<p>(a) Gates/doors shall be recessed and / or be incapable of opening outwards, steps and access ramps shall be recessed or contained within the curtilage of the proposed development, in order not to impede or obstruct the public road or footpath.</p> <p>(b) Surface water from the site shall not run across public footpath (or road).</p>	In the interest of traffic safety.
10	<p>Prior to the commencement of the proposed development, the Developer shall pay or enter into an agreement with the Planning Authority to pay a contribution to Cork City Council in respect of the following classes of public infrastructure and facilities benefiting development in the City of Cork and that is provided or that is intended to be provided by or on behalf of Cork City Council, in accordance with the General Development Contributions Scheme ("the GDCS scheme"):</p> <p>Class 1 - Roads, Transportation Infrastructure and Facilities Class 2 - Water and Drainage Infrastructure and Facilities excluding Water and Wastewater Class 3 - Parks, Recreation, Amenity and Community Facilities</p> <p>The present value of the contribution as determined under the GDCS made by Cork City Council on the 13th November, 2017 is €11,337.30, which sum is subject to indexation in accordance with the Consumer Price Index prevailing at the date of payment and subject further to such exemptions or reductions as apply to the proposed development having regard to the provisions of Table 5 of the GDC Scheme.</p>	To comply with the General Development Contribution Scheme 2017 - 2021, which was adopted by Cork City Council on 13th November, 2017, and in the interests of the proper planning and sustainable development of the area.



Comhairle Catharach Chorcaí - Cork City Council

Information Note- Water and Wastewater Infrastructure

An amount equivalent to development contributions for Water and Waste Water infrastructure, previously levied by Cork City Council, is now payable to Irish Water.

In addition to the planning contributions payable to Cork City Council, as set out in the attached notification of decision to grant permission, a further sum equivalent to approximately 50% of Cork City Councils development contributions will be payable to Irish Water in respect of water and waste water infrastructure.

Please also note that a separate connection fee will also be payable to Irish Water.

Contact should be made with Irish Water directly on 1890 278 278 to clarify the exact amounts payable to them.

Michael Sheehan,
Administrative Officer,
Water Services.

Information Note - Public Water and Waste Water Networks Connections

On the 1st of January 2014 Irish Water became the statutory body with the responsibility for all water services, both water and waste water. The provision of a water services connection will be carried out by Irish Water in partnership with each Local Authority.

Any persons seeking a connection to any of Irish Water's networks should make an application in the first instance to their Local Authority who will act on behalf of Irish Water in processing the application.

A Connection Agreement between Irish Water and the applicant will be required, prior to any connection being agreed, and will set out the conditions and charges to be applied to the connection. Details, including availability of application forms, are to be found on each Local Authority website.

It should be noted that Planning Authorities can no longer levy water and wastewater development charges and that these will now be incurred as part of the connection charge, if applicable.

Since the 1st of January 2014 Irish Water has been applying Interim New Connection Charges (Infrastructure Fee and Connection Fee) that are the equivalent of both the water and waste water portion of Development Levies and Connection Fees previously charged by the Local Authorities.

The previous Local Authority Development Levy is now called an Infrastructure Fee and the previous Local Authority Connection Fee is now called a Works Fee. Both these fees are charged by Irish Water as they were in the Local Authorities on the 31st of December 2013.

Where planning permission was granted prior to the 1st of January 2014, Local Authorities will continue to bill and collect the water and waste water portion of Development Levies (Infrastructure Fee) as previously and subsequently transfer this to Irish Water. Irish Water will charge a Works Fee equivalent to the Connection Fees as they were in the Local Authorities on the 31st of December 2013.

Under the provisions of Section 55(1)(a) of the Water Services Act 2007 (the Act) it is an offence for a person to cause or permit the connection of a premises to the public water supply network, either directly or indirectly, or to otherwise take a water supply without the agreement of Irish Water.

Similarly under the provisions of Section 61(1) (a) of the Act, it is an offence for a person to cause or permit the connection of a premise to the public waste water collection network, either directly or indirectly, without the agreement of Irish Water.



An Roinn Rialaithe Tógála
Halla na Cathrach
Sráid Anglesea
Corcaigh

tel: 021 492 4332

Building Control Department

City Hall
Anglesea Street
Cork

email: buildingcontrol@corkcity.ie

Important Information for the Purposes of BUILDING CONTROL

1. Commencement Notice; www.localgov.ie

In accordance with the Building Control Regulations 1997 to 2014 you are obliged to submit a Commencement Notice prior to commencement of the development and it must be received by the Building Control Authority not less than 14 days and not more than 28 days before you wish to commence. Commencement Notices and accompanying Certificates and Undertakings are to be submitted via the online Building Control Management System available at www.localgov.ie

(a) A completed copy of the commencement notice which must be signed by the owner of the works and must be accompanied by the following:

- General Arrangement Drawings
- A schedule of design documents as are currently prepared or to be prepared
- An online- assessment via the Building Control Management System of the proposed approach to compliance with the requirements of the Building Regulations 1997 to 2014;
- The preliminary inspection plan
- A Certificate of Compliance (Design)
- Notices of Assignment in respect of the Builder who will carry out the works and of the Assigned Certifier who will inspect and certify the works, and
- Certificates of Compliance signed by the Builder and the Assigned Certifier undertaking to carry-out their roles in accordance with the requirements of the Building Regulations.

With regard to the above, please note that:

- The Designer and the Assigned Certifier must be a Chartered Engineer, or Registered Architect or Registered Building Surveyor
- A Competent Builder must execute the work
- Your drawings must show details of how your Building will comply with the Building Regulations - drawings submitted for planning permission purposes are not typically of adequate construction detail for building control compliance drawings.
- The commencement notice and accompanying documentation must be filed electronically via the online Building Control Management System. Where notices and documentation are submitted in written format, the building control authority can arrange for scanning and uploading of same for which an administrative charge and other costs may apply and statutory deadlines relating to validation of such notices are extended.

(Note: Statutory approvals relating to fire safety and disability access certificates continue to apply where relevant and are not affected by the above changes).

For more information, <http://www.environ.ie/en/DevelopmentHousing/BuildingStandards/>

2. Construction Products Regulations (CPR) (Regulation (EU) No. 305/2011)

CE MARKING of construction products covered by harmonised European Standards is mandatory when the construction product is placed on the market.

You need to ensure that you appoint competent professionals.

Whilst the CPR concerns itself with the conditions which apply when placing a construction product on the market, clients, specifiers, designers and builders etc. should be aware of the following when incorporating construction products into building works:

1. When drawing up specifications, refer to the harmonized technical specifications and specifically to the performance requirements of individual characteristics when necessary.
2. When choosing the products most suitable for their intended use in construction works, review the manufacturer's Declaration of Performance.
3. Check National Annexes or Standard Recommendations which give guidance on appropriate minimum performance levels for specific intended uses of the product in Ireland. NSAI host this information at www.nsa.ie, and

NOTE; All works should be carried out using "proper materials...which are fit for the use for which they are intended and for the conditions in which they are to be used" to ensure compliance with the Building Regulations.

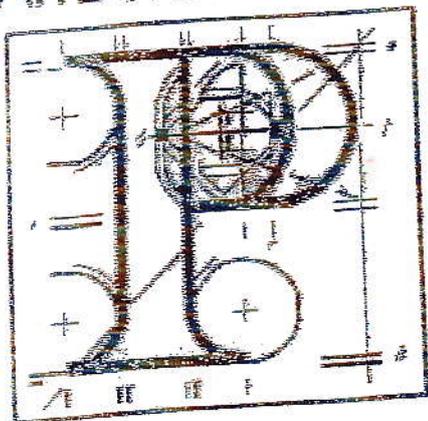
For further information on the Building Regulations and Construction Products Regulations please contact your Building Control Authority or see

<http://www.environ.ie/en/DevelopmentHousing/BuildingStandards/>



Guide to Making a Planning Appeal – Revised 2012

An Bord Pleanála



The planning system includes a comprehensive appeals process. Under this, all planning decisions made by planning authorities may be subject to independent review by An Bord Pleanála (the Board). This leaflet gives details of the main features of the appeal process and is intended as a practical guide to the procedures under the 2000 to 2011 Planning Acts. It is not a definitive legal interpretation of the planning law. You are also advised to read "Guide to Fees payable to the Board" leaflet. This and further information is available from the Board or your local planning authority. This Guide does NOT deal with direct applications to the Board for planning permissions / approvals in respect of strategic infrastructure development. See separate guide for those procedures.

1. Is there an official form for making an appeal?

There is no statutory form for making an appeal. However, the Board has produced a "Planning Appeal Check List" which may be used as a cover page in an appeal. This document provides an easy-to-use guide which, if followed fully, should help to ensure that your appeal will be valid. Remember that the onus is on you to ensure your appeal is valid. The document is available from the Board, may be downloaded from its website www.pleanala.ie and should be available from your local planning authority.

2. Who may appeal?

- An applicant for planning permission (first party), and
- any other person, body or interested group etc. who made submissions or observation in writing to the planning authority in relation to the planning application in accordance

with permission regulations (third party) There are three exceptions to the requirement to have made prior submissions or observations:

(1) where a prescribed body was entitled to be notified of a planning application by the planning authority and was not notified in accordance with law, the body may appeal the decision of the planning authority without having made submissions or observations on the planning application.

(2) where an environmental impact statement (EIS) was required to be submitted with the application to the planning authority, a body whose aims or objectives relate to the promotion of environmental protection and which meets certain other requirements may appeal the decision of the planning authority without having made submissions or observations on the planning application.

(3) a person with an interest in land (e.g. a landowner/occupier) adjoining the application site may apply to the Board for leave to appeal the decision of the planning authority without having made submissions or observations to the planning authority (see question 33).

3. Is there a time limit on appeals?

Yes. Except where a person is granted leave to appeal by the Board (see questions 2(3) and 33), an appeal must be received by the Board within **four weeks** beginning on the date of the making of the decision by the planning authority (N.B. not the date on which the decision is sent or received). The day the decision is made is counted as the first day. 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** (not Wednesday 30th) of the same month. The Board's website has a calendar facility to assist in calculating the last day for making an appeal.

Where a person is given leave to appeal, the appeal must be received by the Board within two weeks of him/her receiving notification of that fact.

These are strict statutory time limits. The Board has no discretion to accept late appeals, whether they are sent by post or otherwise. It is your responsibility to ensure that the appeal or other material is delivered or posted in time for delivery within the appropriate period. An appeal or other material posted within the permitted period but received outside it will be invalid. Further information on time limits is given in questions 29, 30 and 31.)

4. How may I appeal?

Every appeal must be made in writing and must be:

- sent by **post** to: The Secretary,

An Bord Pleanála,

64 Marlborough Street,

Dublin 1

- or, delivered by hand to an employee of the Board at the Board's offices during office hours (9.15 a.m. to 5.30 p.m. on Monday to Friday except on public holidays and other

days on which the offices are closed) Appeals placed in the Board's letterbox are invalid

The appeal must be fully complete from the start - you are not permitted to clarify, elaborate or submit any part of it at a different time, even within the time limit. (See question 15).

5. What must I include with my appeal?

- Your own name and address - both of which must be clearly stated. Where an agent makes the appeal on your behalf, he/she must state clearly his/her own name and address and your name and address.
- The subject matter of the appeal - you must give sufficient details to enable the Board to readily identify the application the subject of the appeal (e.g. a copy of the planning authority decision, or details of the nature and the site of the proposed development, or the name of the planning authority and the planning register reference number of the decision you are appealing).
- The grounds of appeal and supporting material and arguments. The Board cannot take into consideration any grounds of appeal or information submitted after the appeal (except information specifically requested by the Board) and it cannot consider non-planning issues; grounds of appeal should not, therefore, include such issues. (See question 26).
- The correct fee. Details of fees are available from the Board or your local planning authority.
- In the case of a third party appeal a written acknowledgement (or copy thereof) by the planning authority of the receipt of submissions or observations made by the person (third party) at planning application stage.

6. What if my appeal is incomplete?

If the appeal does not meet all the legal requirements at the time the appeal is made (see the preceding paragraphs for guidance), it will be invalid and cannot be considered by the Board. (See also question 15).

7. Do different fees apply in different situations?

Yes. Where, for example, the appeal involves an EIS or relates to commercial development and/or an application for retention and the appeal is made by the first party, higher than normal fees apply. Commercial development for this purpose includes, for example, the provision of 2 or more residential units (houses, apartments, etc), the conversion of a single residential unit into 2 or more residential units, the provision of a residential unit in conjunction with some other commercial development, and the conversion of an existing structure or use into a residential unit and some other commercial use. Different fees also apply to other categories such as "observers" (see question 12), certain public bodies and for oral hearings. Please refer to the Board's "Guide to Fees payable to the Board" for information on current fees.
www.pleanala.ie/news/newfees.doc

8. Are appeal fees likely to change?

Yes. Under the Planning Acts, the Board is required to review the level of fees payable to it for making appeals, referrals, applications for leave to appeal, submissions or observations and oral hearing requests at least every 3 years. You should always check the latest position to ensure that you know the current

applicable fee. Please refer to the Board's "Guide to Fees payable to the Board" for information on current fees.

9. Can I see the planning authority file before appealing?

Yes. The planning authority will make available for public inspection the planning application and any submissions or observations received in relation to the application at its offices as soon as may be after they are received.

Within 3 working days of its decision, the planning authority will also make available for public inspection at its offices-

- the complete application and any additional information supplied by the applicant,
- its own reports on the application,
- its decision and notification of this to the applicant and any other person or body who made submissions or observations in relation to the application.

10. Can I get copies of documents relating to a planning application?

Yes. Copies of the documents referred to at 9 above may be purchased from the planning authority at a reasonable cost.

11. Are there certain decisions or conditions of a planning authority on a planning application which cannot be appealed?

- There is no appeal to the Board where a planning authority decides to refuse permission on the basis of **past failures** of a developer or a related person to comply with a previous permission (and the High Court does not annul that decision).

- There is no appeal to the Board against a decision to grant permission consequent on the grant of outline permission in respect of any aspect of the decision which was decided in the outline permission.

- Generally, there is no appeal to the Board in relation to conditions against financial contributions imposed under Development or Supplementary Development Contribution Schemes. However, appeals are permitted against special contribution conditions imposed by a planning authority and appeals are also permitted where a developer considers that the terms of a Development or Supplementary Development Contribution Scheme were not properly applied. In such cases, where there is no other appeal against the decision of the planning authority, the Board can only deal with the matter under appeal (see question 20) and the planning authority shall make the grant of permission notwithstanding the appeal to

the Board provided that the person taking the appeal furnishes to the planning authority security for payment of the full amount of the contribution or special contribution, as appropriate

12. Can I make my views known to the Board without appealing?

Where an appeal has already been made, any person other than a party to the appeal can become an "observer" and make submissions or observations on the appeal. A copy of the appeal can be seen at the planning authority's office. The time limit for such submissions or observations is- (a) four weeks beginning on the day of receipt of the appeal by the Board (or the last appeal where more than one is made) or, (b) in a case where an Environmental Impact Statement has been requested and received by the Board, four weeks beginning on the date of publication of notice of same or, (c) where the Board requested the applicant to publish a further site or newspaper notice, four weeks beginning on the date of publication of same. So, in the case of (a) above, if an appeal is received on **Wednesday 2nd** of a month, the last day for receipt of submissions or observations on the appeal by an "observer" is **Tuesday 29th** (not Wednesday 30th) of the same month. The Board's website has a calendar facility to assist in calculating the last day for making a submission / observation. See also questions, 29, 30 and 31 regarding time limits. Should the appeal (or all the appeals where there is more than one) be withdrawn by the person(s) who made it, the decision of the planning authority will stand and your submission will lapse.

13. How may I make my views known to the Board?

An "observer" should submit his/her submissions or observations in writing by: -

- sending them by **post** to: The Secretary,

An Bord Pleanála,

64 Marlborough Street,

Dublin 1

- or, delivering them to the Board's offices. (Office hours are 9.15a.m. to 5.30p.m. on Monday to Friday except on public holidays and other days on which the offices are closed).

14. What must I include with my submissions or observations?

- Your own name and address - which must be **clearly stated**. Where an agent makes the submissions or observations on your behalf, he/she must **state clearly** his/her own name and address and your name and address.
- The subject matter of the submissions or observations - you must give sufficient details to enable the Board to readily identify the application/appeal e.g. a copy of the planning authority decision or the appeal reference number.
- The full grounds of the submissions or observations and supporting material and arguments. The Board cannot take into consideration any further unsolicited submissions after the initial submissions or observations are received (except information specifically requested by the Board) and the Board cannot consider non-planning issues.
- Please refer to the Board's "Guide to Fees payable to the Board" for information on current fees.

www.pleanala.ie/news_newfees.doc

15. If my appeal or observation is invalid, can I re-lodge the appeal or observation?

If you comply fully with ALL the requirements at the time you re-lodge the appeal or observation, then it will be accepted. The requirements are that the appeal or observation must be received within time (see question 3 or 12, as appropriate), be made correctly (see question 4 or 13) and must include all the

information and documents (see question 5 or 14) when it is re-lodged. Even if a fee (correct or not) was lodged with the invalid appeal or observation, the full fee must always accompany the new appeal or observation.

Where the time limit has not expired for re-lodging a fresh appeal or observation, the Board can not guarantee that it will notify appellants or "observers" in sufficient time that would allow a fresh appeal or observation to be made within the statutory time limit.

16. Can I ask for an oral hearing?

A party (applicant, planning authority and appellant) to the appeal (not an "observer") may request an oral hearing provided the correct non-refundable fee is paid in addition to the appeal fee. The appellant must make the request within the period for lodging the appeal but, where a party to an appeal other than an appellant is sent a copy of an appeal, he/she may make the request within four weeks from the date the copy is sent to him/her.

If you request an oral hearing, you still must state your grounds of appeal in full and comply with the other legal requirements when lodging your appeal. The Board has absolute discretion to hold an oral hearing with or without a request from a party and will generally only hold one where this will aid its understanding of a particularly complex case or where it considers that significant national or local issues are involved. The Board may also direct the holding of an oral hearing to determine whether an appeal is made with the sole intention of delaying development or of securing the payment of money, gifts, considerations or other inducement by any person.

17. What happens next?

The Board sends a copy of the appeal to the planning authority, in the case of a third party appeal, to the applicant and any other appellant. These have four weeks to submit their views. The Board cannot consider any views that are late and no party is allowed elaborate on his/her views in writing once they have been submitted to the Board.

18. What does the Board take into consideration when deciding an appeal?

Generally, the Board is required to consider the planning application, the subject of the appeal, *de novo*, (i.e. as if the application had been made to it in the first instance) and the EIS, if any. The Board will determine the application on the basis of the proper planning and sustainable development of the area and the effects, if any, the proposed development would have on the environment. The Board must have regard to such matters as the policies and objectives of the local development plan, Ministerial planning guidelines, regional planning guidelines, the National Spatial Strategy, the policies and objectives of the Government and the national interest. In addition, the Board must consider the grounds of appeal, the decision of the local planning authority, any submissions or observations made to the planning authority and/or the Board in relation to the application and the appeal as appropriate, and the report and recommendation of the Board's inspector on the appeal.

19. How does the Board ensure fair play for all?

Where the Board considers it appropriate in the interests of justice, it can ask any party, observer or any other person or body to make submissions or observations on any matter that has arisen in the appeal. This will allow the Board, for instance, to seek comment on any significant new matter arising in the appeal. The Board also has powers to require any party or observer to submit any document, information etc. which it considers necessary. The Board will specify a time limit (minimum 2 weeks) for submission of the invited material and this limit will be strictly enforced.

20. Can the Board consider matters which have not been raised in the appeal?

Yes. As stated at 18 above, the Board is generally required to consider the application *de novo*. Except in the circumstances as outlined in question 21 following, all the relevant planning issues relating to the application are considered by the Board in its determination of the appeal whether or not they were raised by the planning authority, other parties or any 'observers'. As stated at 19 above, if a new issue arises the parties and observers will be given an opportunity to comment on these.

21. In what circumstances may the Board not consider the application *de novo*?

Where an appeal relates to conditions only which are attached to a decision of a planning authority to grant permission and there is no other appeal, the Board may use its discretionary powers not to consider the application *de novo*. Instead, it may issue directions to the planning authority to amend, remove or attach new conditions to the decision. Where it decides not to use its discretionary powers, the Board may either grant or refuse permission for the development even where conditions only are appealed. However, see answer 11(c) relating to Development and Supplementary Contribution Scheme conditions and special contributions where different provisions may apply.

22. Can the Board contravene the provisions of the local Development Plan?

Yes. The Board, while obliged to have regard to the provisions of a local development plan, may contravene such provisions in certain circumstances. In circumstances where the planning authority decides to refuse permission on the grounds that the proposed development materially contravenes the Development Plan, the Board may grant permission on appeal but only if it considers that -

- the proposed development is of strategic or national importance, or
- there are conflicting objectives in the Development Plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- permission should be granted having regard to regional planning guidelines for the area, Ministerial guidelines, Ministerial policy directives, the statutory obligations of any local authority in the area, and any relevant policy of the Government or any Minister of the Government, or
- permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Development Plan.

The Board can, of course, refuse permission for other reasons even where the proposed development would be in accordance with the provisions of the local Development Plan.

23. What is the time limit for deciding appeals?

The Board's statutory objective is to decide or dispose of appeals within 18 weeks. However, where the Board does not consider it possible or appropriate to reach a decision within 18 weeks (e.g. because of delays arising from the holding of an oral hearing), it shall inform the parties of the reasons for this and shall state when it intends to make the decision.

24. What type of decision can the Board make and will I be informed of it?

Generally, a decision will be made either-

- to grant permission/outline permission/permission consequent with or without conditions, or
- to refuse permission/outline permission.

However, see question 21 above which refers to other types of decisions the Board may make. All parties and observers involved in the appeal will be notified of the decision by post. A copy of the Inspector's Report, the Board's Direction (e.g. whether to grant or refuse, what conditions, if any, should be attached to a permission, other instructions etc.), and the Board's decision order are posted on the Board's website at www.pleanala.ie.

The reasons and considerations for the Board's decision will be included in the decision order and, in any case where the Board does not accept the Inspector's

recommendation in relation to granting or refusing permission, the main reasons for not accepting it.

25. Is the Board's Decision Final?

Yes. No challenge may be made to the decision other than to its legal validity. 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 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.

26. Can I be sued for comments made in an appeal or other submission?

Yes. Participants in cases before the Board should be aware that comments involving allegations of any kind against a named or otherwise identifiable person or organisation may be viewed as defamatory by the subject of the comments. Participants may be sued directly for any defamatory allegations in any appeal or submission and should avoid making such allegations. Any submissions made to the Board are generally circulated and/or made available for public inspection. All material relevant to any case determined by the Board becomes available for public inspection following the Board's decision. Please note that in the event of any potentially defamatory allegation giving rise to legal action against it, the Board may seek indemnity from the person making the allegation. It should be understood that the Board is only concerned with issues relevant to the proper planning and sustainable development of the area and that personalised comments are generally not relevant to its deliberations. The same general principles apply to comments or submissions made at oral hearings.

27. Can the Board dismiss appeals?

Yes. The Board has discretion to dismiss an appeal where it is satisfied the appeal is vexatious, frivolous or without substance or foundation or where the appeal is made with the sole intention of delaying development or of securing the payment of money, gifts, considerations or other inducement by any persons. The Board can also declare a planning application or an appeal withdrawn where it is satisfied it has been abandoned.

28. Can I withdraw my appeal?

Yes. An appeal can be withdrawn by an appellant and the planning application can be withdrawn by the applicant at any time prior to the determination of the case by the Board. Where an appeal is withdrawn (or all the appeals where there is more than one), the original decision of the planning authority takes effect. Where the planning application is

withdrawn by the applicant, no permission can be granted by the planning authority in relation to the application

29. How strict are the time limits?

The time lines for the lodgement of appeals, submission of comments and the making of observations to the Board are prescribed in the Planning and Development Acts 2000 as amended. The Board has no discretion to extend these time limits. It is a statutory objective of the Board to determine appeals within a period of 18 weeks from the date of receipt.

30. What if the offices of the Board are closed on the last day allowed for making an appeal or submission?

When the last date for receipt of an appeal or other material falls on a weekend, public holiday or other day when the offices of the Board are closed, the latest date for receipt will be the next day on which the offices of the Board are open.

31. What if the period for making an appeal or submission falls over Christmas or the New Year?

The period from 24th December to 1st January inclusive (i.e. 9 days) is excluded for the purposes of calculation of all periods of time in relation to planning appeals. Therefore, if the period for making an appeal falls between 24th December and 1st January (both dates inclusive), the last day for making the appeal is extended. So, for example, if the last day of the four-week period falls on 24th December, the last day for making an appeal is 2nd January, and if the last day of the four-week period falls on 29th December, the last day for making an appeal is 7th January.

The exclusion of the Christmas/New Year period also applies to any other matter in relation to an appeal where a time period is specified. So, if the last day of the period for making submissions or observations in relation to an appeal or of the 18-week statutory objective period within which the Board should decide an appeal falls within the Christmas/New Year period, the period is extended by an appropriate number of days.

32. Can the Board's documents be inspected and purchased?

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. 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. See the "Guide to Public Access to Files" on www.pleanala.ie.

33. Who may apply to the Board for leave to appeal a decision of a planning authority? (See also answers to questions 2 and 3)

A person with an interest in land (e.g. a landowner/occupier) adjoining the application site who did not make submissions or observations to the planning authority in relation to the planning application may apply to the Board for leave to appeal the decision of the planning authority within four weeks of the authority to grant permission.

The Board may only grant leave to appeal where a person:

- has an interest in land adjoining land in respect to the application site,
- shows that the decision of the planning authority to grant permission will differ materially from the application for permission because of conditions imposed, and
- shows that the conditions imposed will materially affect the applicant's enjoyment of land or reduce the value of the land.

A high percentage of applications for leave to appeal fail because the applicant for leave to appeal does not satisfy the Board that he/she complies with the requirements of same.

Like a planning appeal, the person seeking leave to appeal must state his/her name and address, the grounds on which he/she is basing the leave to appeal (see above), a description of his/her interest in the land and attach the correct fee.

Where a person is granted leave to appeal, the **planning appeal** must be received by the Board within two weeks of him/her receiving notification of leave to appeal and must otherwise comply with the requirements for lodging the planning appeal (see questions 4 and 5) including a further fee. Details of fees are available from the Board or your local planning authority.

34. How do I apply for leave to appeal?

All the requirements specified in question 5 above apply, with the exception of the necessity to include a copy of the acknowledgment of submission(s) at application stage. See question 33.

35. If my application is granted, what happens next?

Where a person is granted leave to appeal, the **planning appeal** must be received by the Board within two weeks of him/her receiving notification of leave to appeal and must otherwise comply with the requirements for lodging the planning appeal (see questions 4 and 5) including a further fee. Please refer to the Board's "Guide to Fees payable to the Board" for information on current fees.

36. Can I refer the planning authority's refusal to deal with a second planning application to the Board?

Where a decision of a planning authority in relation to a planning application is on appeal to the Board, a second application for the same development or development of the same description may **not** be made to the planning authority. Where a dispute arises as to whether an application is for the same development or development of the same description, the matter may be referred to the Board