

# Appendix 2-3

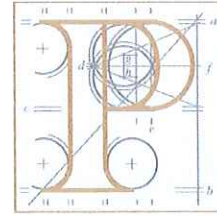
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An Bord Pleanála Direction

Our Ref: ABP-300398-17

PA Reg Ref:

On behalf of: Bord na Móna Powergen Limited



An  
Bord  
Pleanála

McCarthy Keville O'Sullivan Ltd.  
Block 1 G.F.S.C.  
Moneenageisha Road  
Galway  
Co. Galway



Date: 06 June 2018

Re: Solar photovoltaic array, substation and associated grid connection.  
Timahoe North, Ballydermot, County Kildare.

Dear Sir / Madam

Please be advised that following consultations under section 182E of the Planning and Development Act, 2000, as amended, the Board hereby serves notice that it is of the opinion that the proposed development falls within the scope of section 182A of the Planning and Development Act, 2000 as amended. Accordingly, the Board has decided that the proposed development would be strategic infrastructure within the meaning of section 182A of the Planning and Development Act, 2000, as amended. Any application for approval for the proposed development must therefore be made directly to An Bord Pleanála under section 182A(1) of the Act.

Please also be informed that the Board considers that the pre-application consultation process in respect of this proposed development is now closed.

Please find enclosed a copy of the Board Direction in respect of this case and a list of prescribed bodies. Please be also advised that, as only one meeting was held on this case, a fee refund in the amount of €3,500 will issue to you shortly under separate cover.

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 the decision within 3 working days following its decision. 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 attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Teil  
Glao Áitiúil  
Facs  
Láithreán Gréasáin  
Ríomhphost

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64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902

Yours faithfully,



Rob Forde  
Executive Officer  
Direct Line: 01-8737266

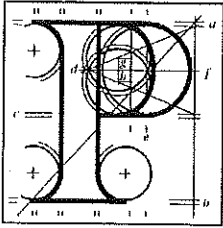
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VC11

## **Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended**

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 and as amended/substituted by sections 32 and 33 of the Planning and Development (amendment) Act 2010) 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. 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.

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.



An  
Bord  
Pleanála

**Board Direction**  
**BD-000388-18**  
**ABP-300398-17**

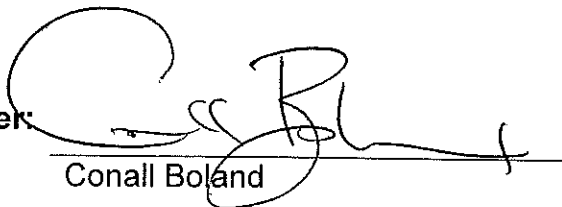
At a meeting held on 30/05/2018, the Board considered the documents on file and the report of the Inspector.

The Board decided that the proposed development does comprise Strategic Infrastructure Development, generally in accordance with the inspector's recommendation.

Note: the Board also agreed with the Inspector's conclusion in section 8.2 of her report, meaning a planning application for the solar farm and battery storage should be made to Kildare County Council in the first instance.

The list of recommended statutory consultees is agreed (check that CER is still correct title for the organisation).

Board Member:

  
Conall Boland

Date: 30/05/2018



**ABP-300398-17**

The following is a schedule of prescribed bodies considered relevant by the Board:

Kildare County Council

Minister for Housing, Planning and Local Government

Minister for Culture, Heritage and the Gaeltacht

Minister for Communications, Climate Action and Environment

An Chomhairle Ealaíon

Failte Ireland

An Taisce

Inland Fisheries Ireland

The Heritage Council

Commission for Regulation of Utilities

Health Service Executive

Irish Water

Irish Aviation Authority