

Our Ref: 06D.YD0007

Your Ref:

Orig — Kathleen Holohan

« Eugene Carde

« Tom Mahon

« Anne O'Connell

« Alan Kennedy (F41)

« Declan McCulloch

An Bord Pleanála



KH 1673

Kathleen Holohan  
Dun Laoghaire-Rathdown County Council  
Planning Department  
Marine Road  
Dun Laoghaire  
County Dublin

06 SEP 2012

Re: Dun Laoghaire Baths Interim Improvement Scheme

Dear Madam,

An order has been made by An Bord Pleanála determining the above mentioned case. A copy of the order is enclosed.

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. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website (<http://www.pleanala.ie>). 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 reverse of this letter 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.

Yours faithfully,

*Kieran Somers*

Kieran Somers  
Executive Officer  
Direct Line: 01-8737107

Encls.



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

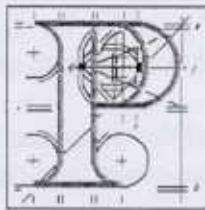
A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006 and as amended/substituted by sections 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



Planning and Development Acts 2000 to 2011

Dún Laoghaire-Rathdown County Council

**APPLICATION** by Dún Laoghaire-Rathdown County Council requesting An Bord Pleanála to exercise its power under article 120(3)(a) of the Planning and Development Regulations, 2001, as amended, to direct the local authority to prepare an environmental impact statement in respect of the Dún Laoghaire Baths Interim Improvement Scheme, Dún Laoghaire, County Dublin.

## DECISION

**NOT TO DIRECT** the local authority to prepare an environmental impact statement in respect of the said proposed development based on the reasons and considerations set out below.

## MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

## REASONS AND CONSIDERATIONS

Having regard to the provisions of:

- (i) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended,
- (ii) the guidance contained within the Department of Environment, Heritage and Local Government document entitled "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", which was issued in August 2003, and
- (iii) the Dún Laoghaire-Rathdown County Development Plan 2010-2016,

and having regard to the submissions made to the Board, the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter, and having regard also to:

- (a) the nature, scale and extent of the proposed interim development works which would be located within the existing land take and visual envelope of the Dún Laoghaire Baths site,
- (b) the limited magnitude, complexity and extent of impacts arising from the proposed works,
- (c) the location of the proposed interim development outside the boundary of any European site(s),
- (d) the absence of any recorded monuments, protected structures and protected views in the vicinity,
- (e) the urban form of the area and the proximity of existing properties in the vicinity, and
- (f) the population density of the surrounding area,

it is considered that the proposed Dún Laoghaire Baths Interim Improvement Scheme would not be likely to have significant effects on the environment and that the preparation of an environmental impact assessment for the proposed development is therefore not required.



Member of An Bord Pleanála  
Duly authorised to authenticate  
The seal of the Board.

Dated this 5<sup>th</sup> day of SEPT. 2012.