

Your Ref:

Ciara Kellett,  
AOS Planning,  
2nd Floor,  
The Courtyard,  
25 Great Strand Street,  
Dublin 1.

26 MAR 2012

23rd March 2012

**Re:** Proposed Mechanical Biological Treatment (MBT) Facility  
On The Site Of The Existing Drehid Waste Management Facility In  
County Kildare.

Dear Madam,

Please be advised that following consultations under section 37B of the Planning and Development Act, 2000 as amended, the Board hereby serves notice under section 37B(4)(a) that it is of the opinion that the proposed development falls within the scope of paragraphs 37A(2)(a), (b) and (c) of the Act. Accordingly, the Board has decided that the proposed development would be strategic infrastructure within the meaning of section 37A of the Planning and Development Act, 2000, as amended. Any application for permission for the proposed development must therefore be made directly to An Bord Pleanála under section 37E 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.

Attached is a list of prescribed bodies to be notified of the application for the proposed development.

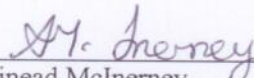
In accordance with section 146(5) of the Planning and Development Act, 2000 as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. This information is normally made available on the list 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.

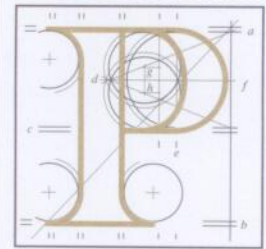
If you have any queries in relation to the matter please contact the undersigned officer of the Board.

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

Yours faithfully,

  
Sinead McInerney  
Executive Officer  
Direct Line: 01-8737295

An Bord Pleanála



64 Sráid Maoilbhríde,  
Baile Átha Cliath 1.

Tel: (01) 858 8100  
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email: [bord@pleanala.ie](mailto:bord@pleanala.ie)

64 Marlborough Street,  
Dublin 1.

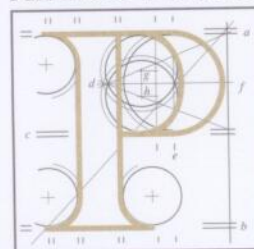
## Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act, 2000, as amended

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



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## **09.PC0106**

**Prospective Applicant:** Bord na Móna

**Proposed Development:** Proposed Mechanical Biological Treatment (MBT) Facility On  
The Site Of The Existing Drehid Waste Management Facility  
In Co. Kildare

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The prospective applicant is advised to have regard to article 213 of the Planning and Development Regulations 2006 when lodging the application for the proposed development under section 37E of the Planning and Development (Strategic Infrastructure) Act 2006.

- The Minister for the Environment, Community and Local Government
- The Minister for Communications, Energy and Natural Resources
- Kildare County Council
- National Roads Authority
- Environmental Protection Agency
- Department of Arts, Heritage and the Gaeltacht
- An Chomhairle Ealaíon
- Fáilte Ireland
- An Taisce
- The Heritage Council
- Inland Fisheries Ireland