

Breakdown of Determined Judicial Reviews involving An Bord Pleanála for the years 2012 to 2022

ABBREVIATIONS

AA: Appropriate Assessment

ABP: An Bord Pleanála

EIA: Environmental Impact Assessment

EIAR: Environmental Impact Assessment Report

EIS: Environmental Impact Statement

NIS: Natura Impact Statement

PDA: Planning and Development Act 2000, as amended

PDRs: Planning and Development Regulations 2001, as amended

SDZ: Strategic Development Zone

SID: Strategic Infrastructure Development

SHD: Strategic Housing Development

WFD: Water Framework Directive

No.	Date	Record No.	Neutral citation	Name of case	Nature of legal challenge	Outcome	Where ABP lost, primary factors involved in loss
1.	30/03/2012	2010 No. 1250 JR	[2012] IEHC 146	Dunne & Mulryan v ABP	Certiorari sought of two decisions of the Board under section 34(5) PDA [s.34(5) provides for the Board to adjudicate where a planning authority and a grantee of planning fail to agree on 'points of detail' that, under a planning condition, are to be the subject of agreement between the planning authority and the grantee of permission]. The Judicial Review Applicants claimed that the Board, in adjudicating under s. 34(5) on issues related to development contributions, exceeded its jurisdiction by taking extraneous matters into account.	Certiorari refused.	

2.	18/07/ 2012	2011 No. 1079 JR	[2012] IEHC 324	Keane v ABP	Certiorari sought of Board's decision to grant permission for a wind farm development; claimed inadequacy of the Board's EIA.	Application dismissed	
3.	12/11/ 2012	2011 No. 878 JR	[2012] IEHC 532	Nee v ABP	Challenge to ABP's grant of permission for a cottage renovation. Claim based on: (1) material contravention of the Development Plan and claim that Board did not stay within the limitations under which it may grant permission in material contravention; (2) inadequate reasons for disagreeing with its Inspector; (3) irrationality and unreasonableness in disagreeing with the strongly expressed views of its Inspector; (4) failure of the Board to conduct AA under the Habitats Directive.	Certiorari refused	
4.	04/12/ 2012	2012 No. 761 JR	[2012] IEHC 539	Leefield Ltd v ABP	Challenge to Board's permission for a retail store and ancillary development. Grounds asserted that the Board failed to give adequate reasons for declining to follow the recommendations of its Inspector to refuse permission.	Certiorari refused.	
5.	05/12/ 2012	2012 No. 619 JR	[2012] IEHC 520	Hoey v ABP, Ireland, the Attorney General & Anor.	Application for leave to seek Judicial review in respect of Board's decision to grant approval under s.175 PDA to Kildare Co. Co. for a water abstraction scheme on the River Barrow. Claim against the Board that inadequate EIA carried out; claim against the State parties that the EIA Directive had not been properly transposed.	Leave to seek judicial review refused.	

6.	15/01/ 2013	2011 No. 701 J.R.	[2013] IEHC 3	Cork Institute of Technology v ABP & Anor	Challenge to decision to impose development contribution as part of planning permission	Quash ABP decision to impose development contribution	<p>Court concluded (contrary to conclusion of ABP) that Cork Institute of Technology was a “voluntary organisation” and as such was exempt, under the terms of the Council’s General Development Contribution Scheme, from planning contributions.</p> <p>Board disagreed with the Inspector on the central question, i.e., whether CIT was a “voluntary organisation”</p>
7.	10/12/ 2013	Suprem e Court Appeal No. 45/2013	[2013] IESC 61 ¹	Ecologic Data Centres Ltd v ABP	Challenge to decision by ABP to refuse permission on appeal, due to the fact that the appeal was withdrawn after its deliberation but before decision	Quash ABP decision to refuse permission. High Court decided to quash, Supreme Court upheld High Court judgment.	<p>High Court followed earlier case of <i>Urrinbridge</i> [2011] IEHC 400 where precisely the same set of facts arose. Court held that the determination of the application before ABP took effect when notice of decision sent.</p> <p>Supreme Court upheld High Court judgment, taking the view that an appeal can be validly</p>

¹ Appeal of High Court judgment [2013] IEHC 34. High Court had decided to quash. Supreme Court upheld High Court judgment.

							withdrawn at any time prior to the formulation of the written decision of the Board.
8.	24/01/2013	2011 No. 291 J.R.	[2013] IEHC 60	McCallig v ABP & Ors.	Challenge to decision by ABP to grant planning permission for a windfarm development, on issues relating to the ownership of particular land	<p>Application for certiorari refused. Declaratory relief granted</p> <p>Declaration granted to the effect that the decision of ABP is void to the extent that it purports to decide to grant planning permission in respect of or in any manner affecting the land of the applicant or any part of it, is void. This was on the basis that a letter that purported to give the developer permission to encroach on lands of adjoining landowners was invalid as it failed to provide a map. In addition, the applicant's land</p>	

						remained potentially affected by the development due to an issue re access to a peat regeneration area.	
9.	15/05/2013	2012 No. 48JR	[2013] IEHC 234	Cunningham v ABP & Ors	Challenge to decision by ABP, under s.5 of the PDA 2000, that a particular development was not exempt	Quash ABP decision and remit for further consideration	Court held that ABP misapplied Article 9(1)(iii) of the PDRs, by applying the wrong test in relation to the question of traffic hazard. While ABP agreed with the overall conclusion of the Inspector, specific words from draft order prepared by the Inspector were deleted. The deletion of these words was of significance for the Court's judgment.
10.	26/08/2013	2011 947/J.R.	[2013] IEHC 402	Craig v ABP	Challenge to decision by ABP under s.226 of PDA 2000 to grant approval to the Council for a waste water treatment plant, on basis of alleged inadequacy of EIS and non-compliance with EIA Directive	Application refused	
11.	19/11/2013	2013 No.29 J.R.	[2013] IEHC 542	Sandymount and Merrion Residents	Challenge to decision by ABP to grant consent for development of sewage plant. Challenge based on alleged breaches of the obligations under the Habitats Directive.	Application dismissed	

				Association v ABP & Ors ²			
12.	11/04/ 2014	2013 No.809 J.R.	[2014] IEHC 238	Kerry County Council v ABP	Challenge to ABP decision to refuse permission for a development involving the widening and straightening of a road.	Quash ABP decision to refuse permission. Matter remitted	Basis for Court's decision to quash ABP decision: <ul style="list-style-type: none"> The Court held that there was a failure by ABP to consider the needs of pedestrians and cyclists in accordance with the appropriate National Roads Authority model for the type of road in question. Court held that this was a breach of s.13(5) of the Roads Act 1993 as amended, which requires consideration of the needs of all road users. Court also found breach of requirement under s.143 PDA 2000 to have

² There was an appeal to the Supreme Court on the issue of the standing of the applicant to bring the proceedings. There was no appeal judgment in relation to the substantive judgment.

							regard to Government policies.
13.	09/05/2014	2013 No. 276 J.R.	[2014] IEHC 232	Harrington v ABP	Challenge to decision by ABP to grant permission for a sports facility and community hall in Ballina, Co. Mayo. Main point in the case: alleged misapplication of the Habitats Directive in a number of respects.	Reliefs refused.	
14.	09/05/2014	2013 No. 802 J.R.	[2014] IEHC 400	Kelly v ABP	Challenge to two decisions by ABP to grant planning permission for wind turbine developments in Co. Roscommon	Quash both decisions. In later judgment ([2014] IEHC 422) it was decided that both matters would be remitted.	The Court set out comprehensive criteria for determining whether an AA is properly carried out (which have been followed repeatedly by the Courts since). Applying these criteria to the facts, the Court held: <ul style="list-style-type: none"> In respect of both decisions, that ABP did not lawfully carry out AA capable of supporting its determination, and therefore did not have jurisdiction to grant planning permission.

							<ul style="list-style-type: none">• In respect of the “Phase 1 Decision”, in addition, that the Board failed to give reasons for its determination which meets the requirements. <p>Board did not follow recommendations of Inspector who recommended a refusal of permission) and this was relevant in the Court’s findings. The Court found that the findings made and conclusions reached by the Inspector in relation to the matters identified as potentially affecting the integrity of the Natura 2000 sites concerned, are such that the appropriate assessment in the Inspector’s Report could not support a determination that the proposed development would not adversely affect</p>
--	--	--	--	--	--	--	--

							the European sites concerned.
15.	30/07/2014	Not provided	[2014] IEHC 382	McGrath Limestone Works Ltd v ABP	<p>Challenge to decision by ABP to a decision by ABP under s.261A of the PDA 2000 requiring an application for substitute consent to be made within 12 weeks, re a quarry in Cong, Co. Mayo.</p> <p>(Also involved a challenge to a related decision by Mayo County Council).</p> <p>Main points in the case:</p> <ul style="list-style-type: none"> • Adequacy of reasons given • Legitimate expectation • Irrationality • Breach of fair procedures • Impermissible attack on property rights • Condemnation on a criminal offence without trial; • S.261A of the PDA 2000 Act is unconstitutional. 	Application refused	
16.	23/10/2014	2013 No. 505 J.R.	[2014] IEHC 487	Ogalas Ltd (t/a Homestore and More) v ABP	<p>Challenge to decision by ABP, under s.5 PDA 2000, that use of a particular property for a particular use was development and not exempted development.</p> <p>Main points in the case:</p> <ul style="list-style-type: none"> • ABP allegedly took irrelevant matters into consideration. In particular, it was argued that the inspector wrongly took the view that a particular condition of the 	Application refused	

					<p>relevant planning permission fell to be interpreted in light of a particular set of guidelines.</p> <ul style="list-style-type: none"> • ABP's decision was allegedly irrational. 		
17.	12/12/2014	2014 No.19 JR	[2014] IEHC 632	O Grianna & Ors v ABP	<p>Challenge to ABP decision to grant planning permission for a proposed windfarm development in Co. Cork</p>	<p>Quash ABP decision. Matter remitted to ABP (see later judgment on remittal [2015] IEHC 248).</p>	<p>Bases for Court's decision:</p> <ul style="list-style-type: none"> • Court concluded that the construction of the wind turbines and the connection to the national grid constitute a single project, not two projects. Court further concluded that therefore it was necessary to for the Board assess, for the purposes of the EIA Directive, the cumulative effect of the single/entire project. In circumstances where that did not happen, decision must be quashed.

18.	14/01/ 2015	2014 No. 340 J.R.	[2015] IEHC 18	Ratheniska Timahoe and Spink (RTS) Substation Action Group & anor v ABP	Challenge to decision by ABP to grant approval for electricity transmission infrastructure and associated works pursuant to s.182A(1) of PDA 2000. Five main grounds: <ul style="list-style-type: none"> • Statutory notification deficient • Failure to carry out proper EIA • Reasons • No proper AA • Costs 	Application dismissed	
19.	26/03/ 2015	2014 No. 6 JR	[2015] IEHC 193	Mooney v ABP	Challenge to decision by ABP to grant planning permission for school development. Claim based on bias, breach of fair procedures, breach of rights under Aarhus Convention, errors of fact.	Application dismissed	
20.	23/04/ 2015	2014 No. 242 JR	[2015] IEHC 256	Ross & Anor v ABP	Challenge to decision by ABP granting permission for retention of a mobile home. Claim primarily based on argument that a particular condition, requiring use solely as a holiday home during summer months, was invalid.	Application dismissed	
21.	01/05/ 2015	2014/48 7JR	[2015] IEHC 271	People Over Wind & anor v ABP & ors	Challenge to decision by ABP granting planning permission for windfarm development. Main points considered in judgment: <ul style="list-style-type: none"> • Adequacy of EIS • Adequacy of EIA • Adequacy of AA • Contravention of the Development Plan 	Application dismissed	

22.	03/07/ 2015	2013 No. 635 J.R.	[2015] IEHC 433	Brophy & anor v ABP	Challenge to decision by ABP refusing permission for the construction of a dwelling house and various other structures. Main points in judgment: <ul style="list-style-type: none"> • Alleged error in interpreting development plan; • Reasonableness. 	Application dismissed	
23.	29/07/ 2015	2014 No. 579 JR	[2015] IEHC 572	Buckley & anor v ABP	Challenge to decision by ABP granting permission for a windfarm development. Main points in judgment: <ul style="list-style-type: none"> • Withdrawal of landowner consent/breach of A.22(2)(g) of PDRs • Alleged failure to carry out an EIA • Alleged failure to carry out an AA 	Application dismissed	
24.	06/10/ 2015	2013 No. 363 J.R.	[2015] IEHC 606	Aherne & ors v ABP	Challenge to decision by ABP granting planning permission for waste facilities, Main points in judgment: <ul style="list-style-type: none"> • Adequacy of EIA • Validity of Condition 7 	Application dismissed	
25.	07/10/ 2015	2015 No. 14 J.R.	[2015] IEHC 604	An Taisce v ABP	Challenge to decision by ABP granting permission for a 28km road development in Co. Kerry. Main point in judgment: that the project for which permission was granted was only part of a larger (32km) single project which should have been considered as one project for the purposes of the EIA Directive.	Application dismissed	
26.	09/10/ 2015	2014 No. 38 J.R., 2014	[2015] IEHC 633	An Taisce v ABP	Challenge to decision by ABP to grant planning permission for the continued use and operation of a previously permitted power plant. Main points related to adequacy of EIA in relation to the	Application partially successful: <ul style="list-style-type: none"> • First named applicant obtained 	

		No. 43 J.R.			<p>extraction of peat as a fuel source for the power plant.</p> <p>Court found that ABP applied legislation applying Article 3 of the EIA Directive too narrowly, in relation to the assessment of the environmental effects of peat extraction for the thermal power plant.</p>	<p>declaratory relief but not <i>certiorari</i>;</p> <ul style="list-style-type: none"> • Second Named Applicant unsuccessful 	
27.	27/11/ 2015	2015/63 6JR	[2015] IEHC 757	O'Mahony Developments Limited v ABP	<p>Challenge to ABP decision to refuse planning permission for a development consisting of 40 residential units in Co. Cork. Main points in case:</p> <ul style="list-style-type: none"> • Misinterpretation of Blarney LAP; • Failure to have regard to the presence of the site within the village boundary; • Placing 'undue weight' on guidelines for planning authorities; • Failure to follow a previous decision. 	Application for leave dismissed	
28.	13/11/ 2015	2015/49 JR	[2015] IEHC 716	Dunnes Stores v ABP	Challenge to decision to grant retention permission for a shopping centre development.	Application dismissed as an abuse of process	
29.	04/02/ 2016	2015 No. 282 JR 2015 No. 80 COM	[2016] IEHC 84	South-West Regional Shopping Centre Promotion Association Ltd & Anor v ABP	Challenge to validity of ABP's grant of permission for a mixed retail and commercial use development. Claim that Board did not have jurisdiction to grant a permission revising or amending an extant permission other than in the limited circumstances identified at ss.146A-146D PDA 2000.	Application/ <i>certiorari</i> refused.	

30.	11/02/ 2016	2014 No. 475 JR	[2016] IEHC 90	Carroll, & Ors v ABP	Challenged to validity of ABP's grant of SID permission for 29 turbine wind farm development. Grounds relied on: (1) in relation to EIA, a claim the ABP merely 'noted' its Inspector's Report rather than carry out an evaluation as part of the environmental impact assessment; claimed substantive errors in dealing with/evaluating material on human health, property values and noise limits. In relation to AA, erroneously considering mitigation measures at the stage 1 screening.	Application dismissed.	
31.	23/02/ 2016	2012 No. 871 JR	[2016] IEHC 104	Hehir -v ABP	Challenge to validity of ABP's permission for the continuation of quarrying.	Challenge allowed	Board did not apply the correct legal test/approach in assessing whether quarrying activity commenced prior to 1 October 1964. Board did not engage in a sufficiently detailed analysis (comparison of levels of activity). Breach of duty to give reasons.
32.	25/02/ 2016	3013 No. 450 JR	[2016] IEHC 134	Balz & Heubach v ABP	Claim for certiorari and declarations in respect of ABP's decision to grant planning permission for a wind farm. Applicant claimed Board failed to carry out an adequate EIA; failed to conduct an	Certiorari granted.	The Court found that it was not possible to be satisfied that the Board had conducted an Appropriate Assessment. Nowhere in the

					adequate AA; that a condition of the permission was <i>ultra vires</i> and not severable; and a material contravention of the County Development Plan		<p>Inspector's Report or in the Board's decision, separately or together, was there a sufficiently detailed level of reasoning or analysis in relation to significant effects on European Sites. The Board's record did not disclose the type of clear, precise and definitive findings and conclusions on AA that is required. Neither was there, on the record of the Board decision, any adoption of the Inspector's report for the purpose of AA</p> <p>NB: The Board diverged from a recommendation of the Inspector (to omit 4 turbines); but the Board did not follow this Recommendation and the Court considered it did not provide an explanation and this played a role in the case.</p>
33.	12/04/2016	2015 No. 524 JR	[2016] IEHC 181	Navan Co-Ownership v ABP	Application for certiorari of ABP's refusal of permission for a cinema theatre complex at Navan, Co. Meath. Challenge based on claim of errors on the part of the Board, via	Certiorari refused.	

					the Inspector, in interpreting provisions of the Development Plan; which led the Inspector – the Applicant claimed -to conclude that the site was ' <i>unquestionably linked to the development of the central rail station</i> ', leading, in turn, the Inspector/ Board to conclude that the proposed development would thereby be premature. Related claims of failing to take relevant considerations into account (i.e the relevant provisions of the Development Plan, <i>properly interpreted</i>) and of irrationality and unreasonableness.		
34.	04/05/ 2016	2014 No. 865 JR 2014 No. 179 COM	[2016] IEHC 226	Dunnes Stores v ABP	Certiorari sought of Board's grant of permission for phased extensions to a shopping centre. Grounds relied on claimed inadequate environmental impact assessment.	Certiorari refused.	
35.	04/05/ 2016	2913 No. 356 JR	[2016] IEHC 277	Sweetman & The Swans & The Snails Ltd v ABP & Ors	Certiorari and declarations sought challenging the validity of Board's permission for Killaloe By-Pass. Grounds included (1) Habitats Directive grounds (claimed failure to identify and take into account an area of alluvial woodland near the site); (2) inadequate EIA; and (3) error in attaching a condition authorising management of construction without assessing a construction management plan.	Certiorari and declarations refused.	
36.	10/06/ 2016	2015 No. 545 JR	[2016] IEHC 310	Sweetman v ABP	Certiorari sought in respect of Board's permission for the upgrade of a 19.5km section of overhead 110Kv power line and	Certiorari Refused.	

					related alterations to structures. Claimed breach of EIA Directive.		
37.	18/01/2017	2016 No. 643 J.R.	[2017] IEHC 7	Ó Grianna & ors v ABP & ors	Challenge to decision by ABP granting permission for a wind farm development. Main points in judgment: <ul style="list-style-type: none"> • Adequacy of EIA • Adequacy of AA • Whether ABP was permitted to grant permission for a development which was substantially different from that remitted to the Board following previous judgment quashing permission. 	Application dismissed	
38.	09/03/2017	2016 No. 728 J.R.	[2017] IEHC 126	North Kerry Wind Turbine Awareness Group v ABP	Challenge to decision by ABP granting permission for a wind farm development. Main points in judgment: <ul style="list-style-type: none"> • Adequacy of AA • Adequacy of EIA • Alleged material contravention of development plan • Reasons 	Application dismissed	
39.	30/05/2017	Supreme Court Appeal No. 304/2010	[2017] IESC 36	Cronin (Readymix) Ltd v ABP & Ors	Challenge to decision by ABP pursuant to s.5 PDA 2000 that works carried out by the Applicant were not exempted development. Main point in the case was the interpretation of s.4(1)(h) of the PDA 2000, which was the exemption provision sought to be relied upon by the Applicant in the case.	Application dismissed ³	

³ Challenge had been successful in the High Court ([2009] IEHC 553) but the High Court judgment was overturned by the Supreme Court on appeal.

40.	01/06/ 2017	2016 No. 650JR	[2017] IEHC 354	Morris v ABP	Challenge to decision by ABP to grant planning permission for a mixed-use development. Main points in the judicial review case: <ul style="list-style-type: none"> • Time • Ownership of lands • Confiscation/sterilisation of lands • role of ABP and separation of power; • Refusal of request to hold oral hearing 	Application dismissed	
41.	31/05/ 2017	2016/61 3JR	[2017] IEHC 366	McDonnell v ABP & anor	Challenge to decision by ABP to grant approval for a windfarm in Co. Mayo	Application for leave dismissed for failure to comply with statutory time limits.	
42.	10/07/ 2017	2015 No. 454 JR	[2017] IEHC 458	Cleary Compost and Shredding Limited v ABP	Challenge to decision by ABP dismissing a planning appeal pursuant to s.138(1)(b)(i) of PDA 2000 (this provision gives discretion to ABP to dismiss an appeal in certain circumstances). Main points in case: <ul style="list-style-type: none"> • allegation that decision not supported by evidence • alleged lack of fairness and breach of natural justice. 	Application dismissed	
43.	11/07/ 2017	2015 No. 646 JR	[2017] IEHC 452	Board of Management of Temple Carrig Secondary School v ABP & ors	Challenge to decision by ABP to grant planning permission for a McDonald's fast food restaurant near the entrance to a school. Main points in the case: <ul style="list-style-type: none"> • Alleged failure to comply with s.177U PDA 2000 (screening for AA); 	Application dismissed	

					<ul style="list-style-type: none"> Alleged failure to comply with s.143 PDA 2000 (obligation to have regard to government policies). 		
44.	26/09/2017	2017 No. 145 JR	[2017] IEHC 541	Alen-Buckley & anor v AP & anor	<p>Challenge to decision by ABP granting planning permission for a wind farm development. Main points in the case:</p> <ul style="list-style-type: none"> Issues re granting permission for the grid connection and temporary haul routes; Allegation that Board failed to have sufficient regard to the reasons behind the initial refusal of planning permission by the Council Alleged failure to have sufficient regard to the Development Plan; Alleged impermissible delegation to the planning authority of certain matters by way of condition; AA screening 	Application dismissed	
45.	28/09/2017	2016/920 JR	[2017] IEHC 550	Element Power Ireland Ltd v ABP	<p>Challenge to decision by ABP refusing to grant planning permission for a wind farm. Planning decision made under s.37E PDA 2000 (strategic infrastructure)</p>	Quash ABP decision to refuse permission and remit	<p>Court found that one of the reasons (“Reason 1) given by ABP for the refusal of permission was inadequate. This reason was on the basis that the proposed development was premature in the absence of relevant national or local strategies re wind energy. The Court found that this reason was <i>ultra vires</i>, took account of</p>

							irrelevant considerations and was invalid.
46.	12/10/2017	2016 No. 748 J.R.	[2017] IEHC 586	McDonagh v ABP & ors ⁴	Challenge to decision by ABP granting permission for a data centre by Apple. Main points in the case: <ul style="list-style-type: none"> • Whether the applicant had standing to bring the challenge • Whether the applicant had breached duty of candour • Assorted grounds found by the court to be without substance 	Application dismissed	
47.	30/11/2017	2016 No. 977 J.R.	[2017] IEHC 716	O'Sullivan & ors v ABP & ors	Challenge to decision by ABP granting planning permission for a wind farm development. Main points in the case: <ul style="list-style-type: none"> • Allegedly inadequate EIA • Allegedly inadequate AA 	Application dismissed	
48.	19/12/2017	2017 No. 336 J.R.	[2017] IEHC 773	O'Brien & anor v ABP & anor	Challenge to decision by ABP granting substitute consent for a wind farm development. Main point in the case: that the Board failed to carry out an adequate EIA (including failure to properly record reasons for same).	Application dismissed	
49.	21/12/2017	2016 No. 604 J.R.	[2017] IEHC 783	Porter & anor v ABP & ors	Challenge to decision by ABP refusing permission (on appeal) for residential dwelling houses	Quash ABP decision and direct that planning appeal be reconsidered	Court found: <ul style="list-style-type: none"> • firstly, that the decision to refuse was irrational bearing in mind the prior grant of a previous very similar application

⁴ While the Fitzpatrick case re the same development was appealed to the Supreme Court, the McDonagh case was not.

							<p>re a family member of the applicant;</p> <ul style="list-style-type: none"> secondly that ABP failed to consider whether the applicants complied with a specific provision of the Rural Housing policy
50.	23/01/2018	Supreme Court Appeal No. 2016 No. 67	[2018] IESC 1 ⁵	Sweetman v ABP	<p>Appeal to Supreme Court against High Court & Court of Appeal decisions that declined to quash the validity of ABP's grant of 'substitute consent' for a quarry.</p> <p>Related challenge to the compatibility of s. 261A PDA 2000 with EU law.</p>	Application refused. Appeal dismissed.	
51.	29/01/2018	2013 No. 734 JR	[2018] IEHC 40	Harten v ABP & Ors	<p>Challenge to validity of ABP's grant of permission for change of use from existing mushroom composting facility to proposed municipal sewage sludge composting facility. Challenge based on claimed inadequate reasons, unreasonableness & irrationality, failure to comply with EIA Directive, failure to carry out and record an AA and inappropriate letting over of matters to be dealt with by planning condition.</p>	Certiorari refused.	

⁵ Appeal from COA judgment: [2015] IECA 123; which in turn was an appeal from the High Court judgment: [2015] IEHC 285).

52.	08/02/ 2018	2013 No. 398 JR 2013 No. 424 JR	[2018] IEHC 58 [2018] IEHC 58	Bulrush Horticulture Ltd v ABP Westland Horticulture Ltd, Westmeath Peat Ltd & Cavan Peat Ltd v ABP	Challenge to ABP decision (on a referral from Westmeath Co. Co. under s.5 PDA 2000) that drainage of boglands, peat extraction, access from public roads is development and exempted development until 20 th day of September 2012 after which it is development and <i>not</i> exempted development.	<i>Certiorari refused.</i>	
53.	07/03/ 2018	2017 No. 687 JR (2017 No. 171 COM)	[2018] IEHC 107	North Meath Wind Farm Limited & Element Power Limited v ABP	Application to quash ABP's decision to refuse planning permission for a wind farm development.	<i>Certiorari refused.</i>	
54.	09/03/ 2018	2013 No. 486 JR	2018 IEHC 136	Friends of the Irish Environment Limited v ABP	Application for <i>certiorari</i> in respect of ABP's decision, on a referral under s.5 PDA 2000, to dismiss (under s.138 PDA 2000) the referral as being insufficiently precise.	<i>Certiorari refused.</i>	
55.	17/05/ 2018	2016 No. 499 JR	[2018] IEHC 338	Hayes & Sweetman v ABP & Ors	Application for <i>certiorari</i> of ABP's decision to uphold decision by planning authority to grant planning permission for a quarry.	Quash ABP decision	This case involved decision of the Board to grant planning permission under s 34 of the PDA to a quarry development which had been the subject of a finding of unauthorised development by the planning authority as a result of a failure to register the quarry.

							Notwithstanding that the developer had never submitted a remedial EIAR or obtained substitute consent in respect of the previous unauthorised development, the Board granted permission for further quarrying. The decision, therefore, was not compliant with the requirements of EU law and, in particular, the cases of <i>Commission v Ireland</i> and <i>Comune di Corridonia</i> .
56.	17/05/2018	2014 No. 342 JR	[2018] IEHC 315	An Taisce v ABP & Ors.	Challenge to the validity of grant of leave to apply for 'substitute consent' for a quarry.	Application for leave refused.	
57.	17/07/2018	Supreme Court Appeal No. 2014 No. 488 JR	[2018] IESC 31	Connelly v ABP	Appeal by ABP to Supreme Court against High Court decision to quash ABP's permission for a wind farm development.	Grant of certiorari upheld. ABP appeal dismissed.	The ABP decision (and the underlying materials) did not contain sufficiently complete, precise and definitive findings to underpin a conclusion that no reasonable scientific doubt remained as to the absence of significant adverse effects on a European protected site in light of the site's conservation objectives;

							and ABP thereby lacked jurisdiction to grant the permission.
58.	31/07/2018	2018 N o. 178 JR	[2018] IEHC 517	Sweetman v Clare County Council & (as a Notice Party) An Bord Pleanála	Certiorari sought in respect of Clare County Council's decision to grant planning permission for coastal erosion defence works to protect a golf links; claims based on absence of AA, failure for give adequate reasons for the decision to grant planning permission and failure to give reasons for departing from the recommendation of the Council's Planning Officers/Inspector.	Relief not granted. Judicial review proceedings stayed on Motion of the County Council. Court held that the appropriate remedy for the judicial review applicant (who had also appealed the decision to An Bord Pleanála) was to exercise his planning appeal.	
59.	30/07/2018	2014 703 JR	[2018] IEHC 547	Nestor v ABP	Application for <i>certiorari</i> against the decision of ABP to refuse permission for conversion of a dwelling house into apartments. Challenge based on claim that ABP took irrelevant factors into account and failed to take relevant factors into account.	<i>Certiorari</i> refused.	
60.	31/07/2018	2016 No. 503 JR	[2018] IEHC 588	Micaud Investment Management Ltd v ABP	Judicial review challenge to ABP's rejection of a purported appeal to ABP against the decision of planning authority to grant permission for a dwelling house. ABP had rejected the purported appeal on the basis that the purported appellant did not include, in its communication to ABP, an	Challenge dismissed.	

					acknowledgement from the planning authority of its submission/observation on the original planning application at planning authority level, as required by s. 127 PDA 2000.		
61.	31/07/2018	Supreme Court Appeal No. 2017. No 19	[2018] IESC 39 ⁶	Callaghan v ABP & Ors.	Appeal to the Supreme Court from the decision of the Court of Appeal in which the Court of Appeal had refused to quash the decision of ABP to deem a proposed wind farm development to be 'strategic infrastructure development'. Court of Appeal and Supreme Court challenges based on applicant's claim that applicant had not been allowed to participate in the preliminary/pre-application consultations between the developer and ABP that led to the proposed development being deemed to be 'strategic infrastructure development.'	Appeal/ challenge dismissed.	
62.	31/07/2018	20018 No. 426 JR 2018 No. 422 JR	[2018] IEHC 473	Clonres CLG v ABP Sweetman v ABP Conway & Louth	Challenge to the validity of ABP's decision to grant SHD permission for 536 residential units. Challenge based on 'error on the face of the record', taking the form of an incorrect recording (in ABP's decision to grant permission) of the test applied by ABP in its assessment ('Appropriate Assessment') under the EU Habitats Directive.	Application/ challenge conceded by ABP. Matter remitted back to ABP.	The stated reason for conceding the case was that the Board accepted that there was an error on the face of the record in terms of the recording of the test applied by the Board in carrying out the Appropriate Assessment in the Board's decision

⁶ Appeal of Court of Appeal judgment [2016] IECA 398 which in turn was an appeal of High Court judgment [2015] IEHC 357.

		2018 No. 423 JR		Environmental Group v ABP			
63.	27/11/ 2018	2017 No. 927 JR	[2018] IEHC 678	Hennessy v ABP	Challenge to the validity of a decision of ABP refusing permission for the retention of a change of use from a caretaker's lodge to full residential user. Challenge based on failure to take relevant considerations into account.	Application/ challenge refused.	
64.	06/12/ 2018	2016 No. 263 JR	[2018] IEHC 701	Hoey v ABP	Challenge to the validity of two decisions of ABP relating to the construction of pig houses. Claim based on manner of conduct of Appropriate Assessment under the Habitats Directive; and on claimed breach of the EIA Directive and on not taking relevant matters into account.	Application/ certiorari refused.	
65.	08/02/ 2019	2017 No. 883 J.R.	[2019] IEHC 84	Kelly v ABP & anor	Challenge to decision by ABP granting permission for an Aldi "discount foodstore". Main points in the case: <ul style="list-style-type: none"> • Breaches of the Habitats Directive, re screening • Retail impact assessment, allegedly flawed test applied; • ABP allegedly failed to specify matters which it considered in making its decision 	Application dismissed	
66.	19/02/ 2019	Suprem e Court Appeal No.	[2019] IESC 8 ⁷	North East Pylon Pressure Campaign Ltd & anor v ABP & ors	Challenge to decision by ABP to grant planning approval of an electricity interconnector running through three counties (138km long), pursuant to s.182B of the PDA 2000 (which relates to	Application dismissed. Supreme Court upheld High Court judgment	

⁷ Appeal of High Court judgment [2018] IEHC 3

		2018/0046]			<p>approvals for electricity transmission lines). Main points in the case:</p> <ul style="list-style-type: none"> • Landowner consent • Entitlement to make planning application • Bias • Designation of ABP as competent authority • Delay • Brexit • Error on the face of the record • Inspector’s Report • Access • Alternatives • Health impacts • Whooper swan 	dismissing the application	
67.	11/04/2019	Supreme Court Appeal No: 157/2017]	[2019] IESC 23	Fitzpatrick & anor v ABP & Ors	Challenge to two decisions by ABP granting permission to Apple for (a) a data centre and associated works, and (b) a substation and grid connection. Main points in the case (on appeal) related to the obligations re EIA of a masterplan, re potential future development not part of the present planning application.	Application dismissed ⁸	
68.	24/05/2019	2016 No. 637 J.R.	[2019] IEHC 352	Halpin v ABP & ors	Challenge to decision by ABP granting planning permission for a renewable energy facility, “anaerobic digester plant”	Quash ABP decision to grant planning permission. Further consideration was to be given as to whether the matter should be remitted	Court found that ABP reached conclusions in relation to the Seveso III Directive (relating to major accident hazards) which were unreasonable in the sense that there

⁸ Challenge had been unsuccessful in the High Court: [2017] IEHC 595. Appeal of this judgment was dismissed by the Supreme Court.

						<p>was no material before ABP capable of justifying its conclusions. In particular:</p> <ul style="list-style-type: none"> • ABP concluded that there was no likelihood of a particular limit for biogas being exceeded, but the Court held that there was no evidence capable of justifying this conclusion; • It was apparent from the documentation that ABP considered that it was imposing a particular condition re biogas, but in fact different condition imposed. <p>N.B. Inspector recommended that planning permission be refused, and this was relevant to the Court's</p>
--	--	--	--	--	--	--

							consideration of the issues.
69.	12/06/2019	2017/54 2 J.R.	[2019] IEHC 479	Shillelagh Quarries Ltd v ABP & Anor	Challenge to decision by ABP refusing leave to apply for substitute consent under s.261A(24)(a) of PDA 2000. Main point in the case: whether the Board correctly interpreted and applied the provisions of s.261A(24)(a)(i)(I) in holding, on the facts, that the quarry in question had not " <i>commenced operation</i> " before 1 October 1964.	Application refused	
70.	21/06/2019	2019 No. 20 J.R.	[2019] IEHC 450	Heather Hill Management Company clg v ABP & anor	Challenge to decision by ABP (made under SHD legislation) to grant planning permission for proposed development of 197 residential units in Bearna, Co. Galway.	ABP decision quashed. Further consideration was to be given to remittal.	<p>Court held that the proposed development constituted a material contravention of the Development Plan in two respects:</p> <ul style="list-style-type: none"> • scale of the proposed development would breach the population hierarchy; • no development management justification test was carried out, contrary to requirements, despite risk of flooding in the area.

							<p>ABP had concluded that the proposed development did not constitute a material contravention.</p> <p>Court also held that ABP erred in law in deciding to defer the completion of a site specific flood risk assessment.</p> <p>Court also held that the AA screening determination was invalid for improperly relying on mitigation measures.</p>
71.	10/07/2019	2019 No. 191 J.R.	[2019] IEHC 504	Southwood Park Residents Association v ABP & ors	Challenge to decision by ABP (made under SHD legislation) to grant planning permission for a proposed large-scale residential development.	ABP decision to grant planning permission set aside.	<p>Relevant regulations (A.201(3) of the PDRs) required that the developer must make a copy of the planning application available for inspection on a dedicated website. Through inadvertence, one of the documents submitted as part of the planning application (report re impact of development on bats) had not been posted online. Court held that this</p>

							was fatal for the planning permission.
72.	11/07/2019	2018 No. 363 J.R.	[2019] IEHC 505	Damer & anor v ABP & anor	Challenge to decision by ABP to refuse permission for a proposed development involving a dwelling house and a heliculture business.	ABP decision to refuse planning permission set aside. Remittal ordered.	Court held that standard of reasons provided for ABP's conclusions on the issue of rural housing and the application of its policies re one-off dwellings did not meet the legal tests.
73.	16/07/2019	2018/10 29 J.R.	[2019] IEHC 525	Conway v ABP & anor	Application for leave to challenge decision by ABP to refuse approval for proposed development of a civic plaza and ancillary traffic management measures at College Green. Central issue in the judgment was whether the Applicant had standing to bring the proceedings.	Court refused to grant leave to the applicant to bring the proceedings, on the basis that he did not have standing.	
74.	14/08/2019	2019/40 JR.	[2019] IEHC 618	Gleann Fia Homes Ltd v ABP & ors	Challenge to decision by ABP, under s.37(6) of PDA 2000, granting leave to two parties (the Notice Parties) to bring a planning appeal from a decision made by Cork County Council granting planning permission for a proposed residential development	ABP decision granting leave to appeal quashed.	Bases for the decision to quash were: <ul style="list-style-type: none"> there was no basis in fact or law upon which ABP could have treated the Notice Parties' lands as "adjoining" (requirement under the provision relied

							<p>upon by the Board)</p> <ul style="list-style-type: none"> no factual basis on which the Board could have concluded that two particular conditions caused the permission granted by the Council to materially differ from the proposed development applied for initially (required under the provision relied upon by the Board).
75.	21/10/2019	2017 No. 308 J.R.	[2019] IEHC 792	Redrock Developments Ltd & Anor v ABP	<p>Challenge to two decisions by ABP:</p> <ul style="list-style-type: none"> Decision on an application for substitute consent under s.177K PDA 2000 re quarry development (refusal); Decision on an application for permission for further development under s.37L PDA 2000 (refusal); 	<p>ABP decision to refuse substitute consent under s.177K upheld.</p> <p>ABP decision under s.37L to refuse planning permission for further development quashed.</p>	<p>Bases for decision to quash the s.37L decision:</p> <ul style="list-style-type: none"> Court held that the first (of five) reasons for refusing the s.37L application lacked the clarity and rationality expected from a decision-maker;

							<ul style="list-style-type: none"> • Court held that the other four reasons were valid; • Court held that because it had no means of assessing the relative weight attached to the different factors, not open to sever the first reason and leave the balance intact.
76.	22/11/2019	2014 No. 518 J.R.	[2019] IEHC 795	Ardagh Wind Farm Ltd v ABP	<p>Challenge to decision to refuse permission for proposed wind farm development.</p> <p>Principal grounds of challenge:</p> <ul style="list-style-type: none"> • that the Board failed to carry out the requisite EIA; • that the Board failed to give reasons for/properly record its assessment. 	Application dismissed.	
77.	12/12/2019	Supreme Court Appeal No.: 167/18	[2019] IESC 90 ⁹	Balz & Heubach v ABP & Ors	Challenge to decision by ABP to grant permission for a proposed wind farm development	Quash ABP decision to grant permission	Court held that ABP had rejected a submission on the basis that the matters in it were irrelevant, contrary to the requirement that relevant submissions should be

⁹ Appeal of High Court judgment in [2018] IEHC 309, in which the challenge was dismissed and the decision upheld. Supreme Court overturned the High Court judgment.

							addressed and an explanation given for why they are not accepted.
78.	18/12/2019	2014/286 J.R.	[2019] IEHC 865	Pearse v ABP	Challenge to decision by ABP to grant substitute consent for a quarry. Main points in the case: <ul style="list-style-type: none"> • Adequacy of EIA • Adequacy of screening for AA 	Application refused	
79.	18/12/2019	2016/187 J.R.	[2019] IEHC 866	East Coast Transport Limited v ABP & anor	Challenge to decision by ABP to grant substitute consent pursuant to s.177K for a quarry. Main points in the case: <ul style="list-style-type: none"> • Breach of s.172(1D) and 172(1E) PDA 2000; • Board should have raised request for further information; • Excessively onerous burden of proof imposed on the applicant by the Board. 	Application refused	
80.	20/12/2019	2019 No. 63 J.R.	[2019] IEHC 888	Sliabh Luachra Against Ballydesmond Windfarm Committee v ABP	Challenge to decision by ABP to grant planning permission for a proposed windfarm development.	ABP decision quashed on the basis of certain grounds. Court found against the applicant in relation to other grounds. Further consideration to be given to remittal.	<p>Court held that the appropriate assessment carried out by ABP (via the Inspector) re hen harrier did not comply with the legal requirements (in particular the requirement for complete precise and definitive findings; absence of reasonable scientific doubt as to the absence of effects).</p> <p>Court also held that the EIA carried out by ABP (via</p>

							the Inspector) did not comply with the legal requirements and in particular did not identify all actual effects, direct and indirect, of the development on the hen harrier.
81.	20/12/2019	2018 No. 708 JR	[2019] IEHC 929	M28 Steering Group v ABP	<p>Challenge to decision by ABP to approve the scheme for the proposed M28 Cork Ringaskiddy Project Motorway Scheme, under s.49 of the Roads Act 1993.</p> <p>Main point in the case: adequacy of EIA. In particular:</p> <ul style="list-style-type: none"> • With which EIA Directive was the EIS required to be in compliance (2011 or 2014); • Whether the EIS was in compliance with requirements; • Whether the project was properly assessed and whether the in combination effects of the road and quarry were adequately assessed. 	Application refused	
82.	28/01/2020	2019 No. 269 JR	[2020] IEHC 27	Dalton v ABP	Challenge to ABP's to reject, rejection of the Applicant's appeal against the planning authority's decision to grant permission for a residential development; (ABP deemed appeal invalid as names, addresses, identities of the appellants were not included, as required by s.127 PDA 2000)	Application dismissed.	

83.	31/01/ 2020	2019 No. 33 JR	[2020] IEHC 39	Sweetman v ABP	Challenge to ABP 's decision to grant permission for the development of a 67.8-hectare solar farm.	Quash ABP decision to grant permission.	<p>Court found that the AA screening was invalid (as having taken mitigation measures (from the construction and environmental management plan) into account. This invalid AA screening went to the jurisdiction of the Board to deal with the application for development consent/planning permission.</p> <p>Also, the Board failed to comply with what the Court held was a <i>mandatory</i> requirement - under Regulation 72(1) of the P & D Regulations 2001 - to include the appeal against the local planning authority's decision in the Board's weekly list of appeals published on the Board's website.</p>
84.	05/03/ 2020	2016 No. 232 JR	[2020] IEHC 122	Rushe & Ní Raghallaigh v ABP	Challenge to ABP's decision to grant planning permission for the development of a wind farm. Claim based on inadequacy of the AA conducted by the Board under	Application rejected.	

					the Habitats Directive; and, in relation to EIA, on a claim that Board and its Inspectors did not engage adequately with submissions on environmental impact or on cumulative impact.		
85.	10/03/2020	2019 No. 709 JR	[2020] IEHC 151	Redmond v ABP	Challenge to validity of ABP permission for SHD development	Grant order of <i>certiorari</i> quashing the Board's decision.	The Board erred in law in its interpretation of the Development Plan – in not recognising that the designation ' <i>institutional lands</i> ' applied to the site of the proposed development and that, therefore, the proposed development would represent a material contravention of the Development Plan policies and objectives relating to institutional lands in respect of (i) housing density and (ii) public open space. The decision was invalid because the Board, not having recognised the material contravention, did not invoke its statutory powers/mechanisms under the SHD legislation to grant permission in material contravention of the Development Plan.

86.	19 May 2021	2019/90 1 JR	[2021] IEHC 363	Glann Mór Céibh Teoranta & Ors -v- An tAire Tithíochta Pleanáil agus Rialtas Áitúil & Ors	<p>Background to the case involved Irish Water Limited's CPO of certain lands in the Gaeltacht in Co. Galway and a proposed oral hearing re same by ABP. Issue involved related to public access to Acts of the Oireachtas and statutory instruments in Irish, in particular re decisions relating to the environment.</p> <p>Applicants sought declaratory relief to the effect that there is an obligation on the Respondents to provide a translation of the relevant planning primary legislation and statutory instruments, as well as an injunction preventing ABP from holding the oral hearing pending same.</p>	<p>Court ordered that the SIs specified be translated and that this be done in a reasonable timeframe</p> <p>Declaratory relief granted.</p>	<p>Court held that there is a constitutional responsibility on the Respondents to provide an official translation of the Planning and Development (Amendment) Act, 2018. Notwithstanding that a translation of the Act was available at the time of the JR, the judge held that the Respondents had breached their constitutional responsibility as they had been unreasonably slow in translating it.</p>
87.	12/03/ 2020	2018 No. 929 JR	[2020] IEHC 133	Behan v ABP	<p>Applicant instituted proceedings against ABP in respect of (i) ABP's refusal of substitute consent for a quarry and (ii) for refusing permission for further development at the same site.</p>	<p>Court granted the majority of the reliefs sought, including an order of certiorari of the decision refusing permission for continued development,</p>	<p>Court found that the substitute consent application to ABP had been an invalid application and, for that reason, could never have been the subject of a grant of substitute consent. The site location map submitted with the substitute consent application showed an incorrect location. Therefore, the application did not comply with s.</p>

							<p>177N PDA and the P&D Regulations regarding the content of substitute consent applications.</p> <p>Also, in respect of ABP's refusal of permission for the further development at the same site, that refusal decision was also invalid in that the Board's consideration of the further development application was tainted by the underlying invalid substitute consent application on which it was based.</p> <p>Court also found that even though the substitute consent application was invalid, there had been delay by the Board in dealing with the application, in breach of s. 126 PDA</p>
88.	12/03/2020	2017 No. 246 JR	[2020] IEHC 290	Kenny v ABP	Application for <i>certiorari</i> in respect of Board's decision refusing permission to construct a district centre, mixed-use development, apartments, office suites and associated development. Application	Application refused.	

					based on claim of irrationality and on failure of the Board to consider/have regard to its power under section 37(2) PDA 2000 to grant permission in material contravention of the Development Plan.		
89.	17/04/2020	2019 No. 318 JR	[2020] IEHC 177	Barna Wind Action Group v ABP	Issue in the case was whether a remittal order should be made. The Board, having conceded to an Order of <i>certiorari</i> quashing its decision of 2 April 2019 to grant permission for a windfarm, ¹⁰ contended that it was not an appropriate case for remittal.	Board conceded certiorari. Remittal Ordered.	ABP decided to concede the case following the delivery of the Supreme Court judgment in Balz v ABP [2019] IESC 90.
90.	20/04/2020	2013 No. 647 JR	[2020] IEHC 195	JJ Flood & Sons (Manufacturing) Ltd & Anor v ABP, Ireland & the Attorney General	Claim for <i>certiorari</i> quashing decision of ABP confirming earlier decision of planning authority directing the applicant to apply for substitute consent for a quarry; claim for declaration that section 261A PDA 200 was unconstitutional.	Application for relief rejected.	
91.	23/04/2020	Supreme Court Appeal No. 2019 No. 25	[2020] IESC 14 ¹¹	Friends of the Irish Environment Limited v ABP	FOIE appeal to Supreme Court from the decision of the High Court. High Court had refused to quash decision of ABP rejecting/refusing to deal with a referral to ABP from Westmeath Co. Co. under s. 5 PDA as to whether certain peat extraction activities were exempted development.	Application for relief refused. Appeal rejected by Supreme Court.	

¹⁰ The Board had initially contested the applicant's claims for certiorari in respect of the windfarm; but conceded following the Supreme Court's ruling in Balz v ABP [2019] IEHC 90 in which the Supreme Court ruled that the Board had erred in failing to pay adequate regard to the submissions made to it that the Wind Energy Development Guidelines 2006 were outdated and should not be followed.

¹¹ Supreme Court appeal of High Court judgment delivered by Meenan J on 9 March 2018.

92.	12/05/ 2020	2018 No. 750 JR	[2020] IEHC 292	Navratil -v- ABP	Challenge to ABP's rejection of landowner's appeal against entry of lands onto the Vacant Sites Register.	Challenge upheld; declarations made that ABP acted <i>ultra vires</i> its powers under the Urban Regeneration and Housing Act 2015	<p>Court found there was no evidence before the Board that the site was suitable for housing through being served by public infrastructure and facilities.</p> <p>Court found that ABP /its Inspector failed to provide reasons for its conclusion that the site was suitable for housing.</p> <p>Court found that ABP misdirected itself in law as to the meaning and effect of the words '<i>vacant or idle</i>'.</p>
93.	19/06/ 2020	2020 No. 44 JR	2020 IEHC 294	Protect East Meath v An Bord Pleanála & Ors	Challenge to ABP's grant of SHD permission for 450 dwelling units, office space and creche. Judicial Review applicant claimed the Board was not entitled to screen out the possibility of significant effects in circumstances where, the applicant claimed, no survey work had been undertaken to establish whether and the extent to which the development site was /important for/used by the qualifying interests (in particular the Lapwing) of a nearby Natura 2000 site, the Boyne Estuary SPA.	ABP conceded; and consented to an Order of certiorari.	ABP conceded that there was not sufficient evidence before it to screen out significant effects on the Boyne Estuary SPA and that it thereby erred in law.

					Also claimed that ABP had insufficient regard to NPWS surveys that, the applicant claimed, showed a significant population of Lapwing near the development site.		
94.	19/05/2020	2018 No. 849 JR	[2020] IEHC 239	Dennehy v ABP	Challenge to ABP's determination under s.5 PDA that the erection of a gate was development and not exempted development.	Quash ABP order determining that the erection of the gate was 'development' and not exempted development.	High Court found that ABP did not have sufficient regard to all the relevant evidence; a finding in Circuit Court proceedings that no public right of way existed over the location where the applicant erected the gate on his lands.
95.	29/05/2020	2019 223 JR	[2020] IEHC 259	Kavanagh v ABP	Challenge to ABP's decision to grant permission for a solar farm. Challenge claimed that the decision of the Board not to subject the application for planning permission to environmental impact assessment was invalid. Question as to whether solar farms were covered by any of the classes of project listed in Annex I or Annex II of the EIA Directive.	Application dismissed.	
96.	01/07/2020	Sup. Ct. Court Record No. 9/19 Sup. Ct. Record	[2020] IESC 39	An Taisce -v ABP & Ors An Taisce v ABP & Ors	Appeals to the Supreme Court from the High Court. The High Court challenges and Supreme Court Appeals concerned the validity of 'substitute consents' granted by the Board in respect of certain quarry development. At issue was the compatibility of aspects of the 'substitute consent' procedure with the Directive on Environmental Impact Assessment.	Appeals allowed, with declarations made regarding the incompatibility of aspects of the substitute consent procedure' with the EIA Directive.	Supreme Court found that the factors/conditions set in s.177 PDA for the availability/granting of 'substitute consent' did not amount to sufficiently exceptional circumstances and, therefore, they failed the 'exceptionality' test set by the CJEU (by which

		No. 42/19		Sweetman v ABP			<p>the availability in Member States of mechanisms to regularise operations otherwise unlawful in light of Community law should not offer the opportunity to circumvent Community rules, but, rather, should remain the exception.</p> <p>The failure in s. 177 PDA to make provision for public participation at the leave application stage for substitute consent was inconsistent with the public participation rights conferred by the EIA Directive.</p>
97.	22/06/2020	2020 No. 45 JR	[2020] IEHC 356	O'Neill v ABP	Challenge to ABP's permission for SHD development (245 apartments)	<p>Quash ABP decision to grant permission.</p> <p>Also, a Declaration that the Board failed to state the main reasons and considerations for contravening materially the Dublin City Development Plan 2016-2022 (contrary to the</p>	<p>The development applied for materially contravened the Dublin City Development Plan (2016-2022) provisions on height restrictions, in circumstances where SPPR 3(A), which otherwise would permit the Board to grant permission in material contravention of height restrictions, was not shown to be</p>

						requirements of s.10(3) of the SHD Legislation (the 2016 Act).	applicable to the proposed development.
98.	31/07/2020	2018 No. 880 JR	[2020] IEHC 400	Crekav Trading GP Limited v ABP	Applicant's challenge to ABP's decision (on a remitted application) to refuse permission for an SHD development. The Board, departing from the recommendation of its Inspector, refused permission on grounds of inadequate AA screening and of the quality of the AA analysis itself.	Grant order of <i>certiorari</i> quashing the decision to refuse permission.	Reasons given by ABP for refusing permission and for disagreeing with its Inspector's recommendation to grant permission were inadequate. N.B. Board diverged from Inspector and this played a role in the judgment.
99.	31/07/2020	2019 No. 49 JR	[2020] IEHC 423	Reidy v ABP	Application for leave to seek JR: leave sought to challenge ABP's refusal of permission to the applicant to construct a dwelling house; claim based on validity of ABP's finding that applicant had not established a locally based social or economic need.	Application dismissed on the basis that applicant had not sought leave to apply for judicial review within the statutory 8-week limitation period and applicant had not established good and sufficient reason to extend the time.	
100.	22/10/2020	2020 No. 47 JR	[2020] IEHC 529	Morris v ABP	Challenge to validity of ABP's SHD permission for a development including 512 apartments. Claim based on inconsistency of proposed development with zoning; failure to have regard to concerns raised by local planning authority;	Application refused.	

					material contravention of development plan; failure to have regard to flood risk.		
101.	12/11/2020	2020 / 469 JR	[2020] IEHC 557	Dublin City Council v ABP and Spencer Place Development Company Ltd	<p>Challenge to a decision of the Board to grant permission for an SHD with building heights in excess of those provided for in a planning scheme for the Dublin city docklands area.</p> <p>The Board argued that s 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 together with s 37(2) of the PDA conferred jurisdiction on the Board to grant planning permission in an SDZ in material contravention of a planning scheme.</p>	Board's decision quashed and Court refused to remit the matter back to the Board because it had no jurisdiction to grant the application.	<p>The Court held that the legislation does not confer jurisdiction on the Board to grant permission in an SDZ which is in material contravention of a planning scheme because a "planning scheme" is not a development plan or a local area plan.</p> <p>The Court held that s 9(6) of the 2016 Act has no application to material contravention of the planning scheme and that the Board had no jurisdiction to depart from the planning scheme.</p> <p>The Court noted that the outcome vindicated the judgment of the Board's inspector who noted that certain proposed amendments to the planning scheme (triggered by SPPR3) had not been determined so that the development would be premature</p>

							pending the conclusion of that process. N.B. Board diverged from Inspector.
102.	13/11/2020	2020 No. 388 JR	[2020] IEHC 564	Higgins & Ors v ABP & Ors	Challenge to validity of Board's SHD permission. Claim that Board had insufficient regard to Development Plan policies and objectives and development standards and submissions on zoning, density, road safety and overshadowing.	Grant <i>certiorari</i>	The Board erred in finding that there would be no overshadowing. The Board relied on an overshadowing report that provided insufficient evidence for the Board to reach that conclusion.
103.	19/11/2020	2020 No. 248 JR	[2020] IEHC 587	Dublin Cycling Campaign CLG v ABP	Challenge to validity of ABP's grant of SHD permission for 741 'build to rent' apartments, retail space and associated site works. Claim based on contention that proposed development did not meet definition of 'strategic housing development'; and on claim that decision to screen out significant effects on Natura 2000 sites was defective.	Quash ABP permission.	Court held that the extent of car parking and other non-residential uses meant that the proposed development did not conform to the definition of 'strategic housing development' in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
104.	24/11/2020	2020 No. 22 JR	[2020] IEHC 601	Joyce-Kemper v ABP	Application (heard by way of 'telescoped hearing') for leave to apply for certiorari of ABP's decision to grant permission to Irish Water to develop the 'Greater Dublin Drainage Project' (comprising a new waste water treatment plant, a sludge hub, orbital sewer, pumping station and biosolids storage facility).	Grant <i>certiorari</i> quashing the permission.	Board failed to identify and comply with its obligation under Article 44 of the Waste Water Discharge (Authorisation) Regulations 2007, as amended, to seek the observations of the EPA

							on the likely impact of the proposed development.
105.	25/11/2020	2020 No. 375 JR	[2020] IEHC 586	Balscadden Road SAA Residents Association Limited v ABP	Challenge to ABP permission, granted under SHD legislation, for a large-scale residential development involving the excavation and removal of c. 80,000 M ³ of soil, sand and gravel.	Quash ABP permission.	<p>Board had regard to irrelevant considerations, namely the merits and content of an earlier planning permission for the same development.</p> <p>In addition, the Board's permission was based on an application that was incomplete in that the drawings submitted did not comply with the requirement of the P & D Regulations.</p>
106.	02/12/2020	2020 No. 238 JR	[2020] IEHC 622	Highland Residents Association & Protect East Meath Limited v ABP & Ors.	Challenge to ABP's decision granting permission for the construction of an SHD development for 509 houses, 152 apartments and related development.	Quash ABP permission.	<p>Court found that the relevant lands could not be said to have been, under the Development Plan, zoned for residential development; therefore, the Board was precluded by s.9(6) of the SHD legislation (the 2016 Ac) from granting an SHD permission.</p> <p>Further the Board did not have a sufficient basis to concluded at the screening stage that ex</p>

							<p><i>situ</i> effects on bird species for which the Boyne SPA was designated could be excluded.</p> <p>Further, the Board impermissibly took mitigation measures into account in the course of the Habitats Directive screening exercise.</p>
107.	04/12/2020	2018 No. 1072 JR	[2020] IEHC 652	Moore v ABP	Challenge to validity of two decisions of ABP (both dated 24 October 2018) granting a quarry substitute consent and granting permission to further develop the quarry.	Application dismissed.	
108.	04/12/2020	2018 No. 1063 JR	[2020] IEHC 642	Baile Eamoinn Teoranta v ABP	Applicant's (Developer's) challenge ABP's refusal of planning permission for cottage demolition and the construction of an 81 bedroom hotel and self-catering cottages, innovation centre, 6 detached residential houses and car parking.	Quash ABP permission.	<p>ABP had proceeded on the basis of a material mistake of fact in that the ABP was unaware of the state of progress of Irish Water's intentions/plans to build a municipal waste water treatment plant.</p> <p>The Inspector's and Board's concerns about public health effects related to the proposed use of a <i>temporary</i> WWTP were unspecific and not based on cogent evidence.</p>

109.	21/01/ 2021	[2020 No. 806 JR]	[2021] IEHC 1	O’Riordan v ABP	Challenge to decision by ABP (under SHD legislation) to grant planning permission for a large-scale residential development in Dublin 9.	Application for leave for judicial review dismissed as being out of time. Extension of time refused.	
110.	10/02/ 2021	2019 No. 275 JR	[2021] IEHC 70	C O’C v ABP	Challenge to decision by ABP to refuse permission for a one-off rural house. Main points in the case: <ul style="list-style-type: none"> • Interpretation of relevant Development Plan provisions and question of whether the applicant had social/economic need • Whether ABP’s decision was unreasonable/irrational/ supported by the evidence 	Application refused	
111.	19/03/ 2021	2018 No. 593 J.R.	[2021] IEHC 203	Cork Harbour for A Safe Environment v ABP	Challenge to decision by ABP granting planning permission for a waste to energy facility at Ringaskiddy, Co. Cork. Planning decision was made under SID provisions of the PDA 2000.	Applicant’s challenge successful on two of eleven grounds. Applicant unsuccessful on eight grounds and one ground not pursued. Question of what relief should be granted left over for later date. In later judgment, ¹² the Court decided to quash the ABP	Application successful on two grounds: <ul style="list-style-type: none"> • ABP decision tainted by bias because of prior involvement of one ABP member in work re making submissions on behalf of the Notice Party developer to Cork City and County Councils;

¹² [2021] IEHC 629

						decision and remit the matter to be further considered and determined by the Board.	<ul style="list-style-type: none"> Issue of statutory interpretation of SID provisions of the PDA 2000. Court found that the party that engages in pre-application consultations must be the same party as makes the planning application.
112.	23/04/2021	2020 Nos. 485 to 491 JR 2020 No. 418 JR 2020 Nos. 539 & 540 JR	[2021] IEHC 234	Friends of Irish Environment & Ors v ABP (substitute consent)	Eleven challenges to decisions by ABP granting “stage one” leave to apply for development consent retrospectively. The decisions impugned had been made under legislation that was struck down in the <i>An Taisce</i> judgment [2020] IESC 39. The challenged were instituted in the interregnum between the striking down of the legislation and the enactment of replacement legislation.	<i>Certiorari</i> granted	<p>Court held that had the challenges been heard prior to the enactment of the revised legislation, it would have been inevitable that certiorari would be granted, as the decisions had been made pursuant to a legislation regime that had been found to be inconsistent with the EIA Directive.</p> <p>Issue in the case was whether certiorari or declaratory relief should be granted.</p> <p>Ultimately the Court held that certiorari should be</p>

							granted on the basis that the national court is required to give effect to the EIA Directive, and the only way this can be properly done in the particular case was by means of <i>certiorari</i> .
113.	14/04/2021	2018/1076 JR	[2021] IEHC 259	Sweetman v ABP	<p>Challenge to two decisions by ABP:</p> <ul style="list-style-type: none"> granting substitute consent pursuant to s.177K PDA 2000 re Notice Party's quarry in Co. Meath; granting planning permission for future use and development at the same quarry pursuant to s.37N PDA 2000 <p>Case was similar to, and heard shortly after, <i>Moore v ABP</i> [2020] IEHC 652 (above). Main points in the case:</p> <ul style="list-style-type: none"> Question of whether a reference should be made to the CJEU; Reasons; "Time travel argument"; Depth of excavation – it was argued that ABP granted planning permission for excavation 9m in excess of what was applied for; Bias Website. 	Application refused	
114.	7/05/2021	2020 No. 725 JR	[2021] IEHC 303	Clonres CLG v ABP & ors,	Challenge to ABP decision (dated 20 August 2020, the fourth decision in respect of this site, see above) to grant planning	Quash ABP decision	Bases for decision to quash:

		2020 No. 693 JR		Conway v ABP & anor (No. 2)	permission under the SHD legislation for 657 dwellings, a crèche and associated site works.		<ul style="list-style-type: none"> • in relation to the Inspector’s consideration of the Z15 zoning, the Court held that this involved (a) an irrelevant consideration, (b) a failure to consider a relevant consideration, and (c) misinterpretation of the term “use”. • in relation to the conclusion that the material contravention of the Development Plan on the issue of building heights could be justified by reference to SPPR3, the Court held (a) the assessment failed to consider interaction with flight lines/collision, and (b) that there was
--	--	-----------------------	--	--------------------------------	---	--	--

							<p>a lack of adequate reasons.</p> <ul style="list-style-type: none"> • lack of reasons for relying on the development being of strategic/national importance as a basis for justifying the grant of permission in material contravention of the Development Plan. • ABP erred in relying on SPPR1 of the 2018 guidelines as a basis for justifying the grant of permission in material contravention of the Development Plan.
115.	14/05/2021	2020 No. 712 JR	[2021] IEHC 322	Atlantic Diamond Limited v ABP	Challenge to ABP decision to grant permission (under SHD legislation) for large-scale residential development in East Wall Road, Dublin	ABP decision quashed	<p>Bases for Court's decision to quash:</p> <ul style="list-style-type: none"> • Inadequate reasons provided re decision to grant permission in light of the

							<p>unprecedented nature of the scheme, including on the impact of the industrial operations.</p> <ul style="list-style-type: none"> • erroneous approach to the assessment of daylight and sunlight; • developer's failure to comply with the requirement to provide details re statutory notices in the planning application form as required by A.297(1) of the PDRs.
116.	27/05/2021	2020 No. 54 JR	[2021] IEHC 362	Reid v ABP	<p>Challenge to decision by ABP to grant planning permission for the extension and revision of the Intel manufacturing facility in Co. Kildare. Main points in case:</p> <ul style="list-style-type: none"> • Lack of reasons; • Effect of the development on Dublin Bay related sites; • Alleged improper reliance on mitigation measures; • Adequacy of EIA; 	Application refused	

					<ul style="list-style-type: none"> • Absence of description of reasonable alternatives in the EIA process; • Failure to consider the whole project; • Inadequate assessment of parking; • Allegedly inadequate assessment of construction noise; • Alleged breach of A.15(5) of the Seveso III Directive; • Alleged breach of the PDRs; • Alleged breach of the Chemicals Act Regulations 2015; • Alleged failure to consult with the HSA; • Failure to seek further information; • Failure to take into account safety distances; • Failure to assess effects of major accidents; • Lack of expertise of ABP re major accidents; • failure to consider effects of ammonia emissions contrary to the Habitats Directive. 		
117.	16/06/2021	2020 No. 557 JR	[2021] IEHC 390	Sweetman v ABP & Ors	Challenge to ABP decision to grant planning permission (under the SID provisions) for a windfarm development in Co. Longford.	Quash ABP decision	Basis for decision to quash: breach of Article 214(1) of the PDRs, for failing to provide adequate plans and particulars. In particular, the Court found that the

							approach of submitting a "design envelope"/"Rochdale envelope" which showed maximum dimensions of turbines, rather than anything more specific, for a windfarm development was not permissible under the Regulations.
118.	02/07/2021	2020 No. 568 JR	[2021] IEHC 424	Hellfire Massy Residents Association v ABP & Ors	<p>Challenge to decision by ABP, pursuant to s.175 of the PDA 2000, for development of a visitor's centre and associated works at Montpelier Hill, Co. Dublin.</p> <p>Main points in the case against the Board:</p> <ul style="list-style-type: none"> • Alleged error of fact re visitor numbers • Alleged non-compliance with s.175 of the PDA 2000; • A number of EU law points re bats, squirrels, otters. 	Application for certiorari of ABP's decision dismissed. Reference to the CJEU made on certain questions re the case against the State.	
119.	12/07/2021	2021 No. 218 JR	[2021] IEHC 483	Cooper v ABP	Challenge to decision by the Dun Laoghaire Rathdown County Council to grant planning permission for the installation of a digital screen and use as an outdoor cinema at Dundrum Shopping Centre, Dublin. ABP named as respondent in circumstances where it had sent a letter to the applicant informing him that time for appeal had expired. Board brought motion to strike out proceedings.	Proceedings struck out	

120.	12/07/ 2021	2021 No. 20 JR 2021 No. 19 JR	[2021] IEHC 459	Clifford & Anor v ABP & Ors, O'Connor & Ors v ABP & Ors	<p>Challenge to two decisions by the Board re proposed greenway on disused railway line in Co. Kerry:</p> <ul style="list-style-type: none"> • decision to grant development consent for proposed 31.93km greenway route under s.51 of the Roads Act 1993; • decision to confirm CPO re specified lands made by Kerry County Council. <p>Main points in the case:</p> <ul style="list-style-type: none"> • Alleged incorrect use of the Roads Act 1993; • Allegation that the project was not a cycleway or a road; • Alleged lack of distinct assessment for the CPO; • Alleged wrong test or disproportionality; • Alleged incorrect population figures and unduly narrow justification; • Alleged misunderstanding of severance of lands; • Alleged impermissible modification of CPO; • Alleged illegal condition; • Adequacy of fair procedures re oral hearing; 	<p>Application dismissed other than re declaratory relief. Hearing of module 2 of the proceedings listed for later point; however the Court confirmed that these claims for declaratory relief would not affect the validity of the ABP decision.</p> <p>In later ruling re declaratory relief¹³, the Court decided to grant declarations in each case, on the basis that Section 51(4C) of the Roads Act 1993 transposes those parts of the EIA Directive (as amended by Directive 2014/52/EU) concerned with publication of EIA-related information.</p>	
------	----------------	--	-----------------------	---	--	---	--

¹³ [2022] IEHC 474

					<ul style="list-style-type: none"> • Adequacy of fair procedures re <i>errata</i> documents; • adequacy of reasons; • allegedly <i>ultra vires</i> conditions re speed limits; • EIA and AA points; • Issues re derogation licence. 	<p>The Court consider the failure of the Board to makes available on its website (i) a particular third-party submission and (ii) four <i>errata</i> documents, all of which were concerned with likely effects on the environment was a breach of section 51(4C).</p> <p>In addition, Section 51(6C) of the Roads Act 1993 requires the Board, in EIA-related road development, to publish newspaper notice of its decision and of the main reasons/consideration and a summary of the consultations held. The Court considered the Board's newspaper notice directing the public to the Board's</p>	
--	--	--	--	--	--	---	--

						general website, without referring in the newspaper notice to any specific Link or portal related to the application/project, was not in compliance with section 51(6C).	
121.	15/07/2021	2020 No. 134 JR	[2021] IEHC 453	The Board of Management of St Audoen's National School v ABP & Ors	Challenge to decision by ABP to grant permission (on appeal) for a supervised drug injection facility at Merchants Quay, Dublin.	ABP decision quashed. Further consideration to be given re remittal.	Bases for decision to quash: <ul style="list-style-type: none"> • Failure by ABP to engage adequately with, and provide reasons for not accepting, submissions re whether two land uses (drug injection facility and primary school) were compatible; • Finding that the decision to permit the authorised use for three years was unreasonable.
122.	22/07/2021	2020 No. 417 JR	[2021] IEHC 523	Walsh & Anor v ABP	Challenge to decision by ABP to grant permission (on appeal) for a development	Application for relief refused	

					<p>on an entrance to a residential property and protected structure in Co. Waterford.</p> <p>Main point in the case: whether the developer had breached Article 22(2)(g) of the PDRs (which requires the written consent of the owner of land to be provided with the planning application).</p>		
123.	27/07/2021	2019 No. 810 JR	[2021] IEHC 532	Owens v ABP	Challenge to ABP decision refusing permission for development of a dwelling house on a farm	ABP decision quashed and matter remitted to the Board for fresh consideration.	<p>Basis for the Court's decision to quash:</p> <ul style="list-style-type: none"> • inadequate reasons (and corresponding breach of duty under s.34(10) PDA 2000 to state main reasons and considerations): the Court found that it is not possible to understand from the Board decision/inspector's order what the reasoning of the Board is as regards the key issues, in relation to whether the applicant qualifies for one-off rural housing under the

							Development Plan.
124.	28/07/ 2021	2020 No. 563 JR	[2021] IEHC 509	Save Cork City Community Association CLG v ABP & Ors	<p>Challenge to decision by ABP to grant permission under s.177AE of the PDA 2000 to Cork City Council for certain flood defence works.</p> <p>Main points in the case:</p> <ul style="list-style-type: none"> • Claim that the Council had an impermissible conflict of interest in carrying out EIA screening • Claim that no EIA screening determination was made by the Council; • the Board had no jurisdiction to carry out EIA screening via s.177AE; • Alleged breaches of public participation requirements; • Alleged project-splitting; • Alleged inadequate surveys for the purposes of AA; • Alleged requirement for derogation licences prior to development consent; • Challenges to legislation, not directly relevant to the case against the Board. 	Application for certiorari refused. One (relatively minor) declaration granted.	
125.	20/10/ 2021	2021 No. 89 JR	[2021] IEHC 648	Ballyboden Tidy Towns Group v ABP & Ors	<p>Challenge to ABP decision to grant development consent for flood alleviation works under s.177AE PDA 2000.</p> <p>Main points in the case:</p>	Proceedings dismissed	

					<ul style="list-style-type: none"> • Alleged failure to conduct EIA/AA by reference to cumulative impact of other developments; • Alleged inadequate surveys (bats and otters); • Alleged use of the incorrect legal test re A.12 of Habitats Directive; • Indefinite nature of the permission. 		
126.	10/11/2021	2020/52 2JR	[2021] IEHC 703	Comharchumann Ráth Cairn Teoranta v ABP	<p>Challenge to grant of planning permission by ABP for 30 houses and a guest house in the Ráth Chairn Gaeltacht. 70% of the 30 houses were to be reserved for fluent Irish speakers</p> <p>The Applicant, Comharchumann Ráth Chairn, were concerned that there were no Irish language conditions involved with the guest house and that the language conditions in relation to the 30 houses could be diluted and cancelled by agreement between the majority and the Planning Authority.</p>	Quash ABP decision	Court was not satisfied that the proposed development complied with requirements to show that it would enhance the use of the Irish language in the area. Accordingly reliefs sought were granted.
127.	17/11/2021	Court of Appeal Record No. 2020/233	[2021] IECA 307 ¹⁴	Narconon Trust v ABP	Challenge to two ABP decisions pursuant to s.5 PDA 2000 whereby ABP decided that change of use from nursing home to a residential drug rehabilitation centre was development and was not exempted development.	ABP decision quashed (High Court judgment upheld).	Basis for decision to quash: Court held that ABP was precluded from determining a s.5 referral in circumstances where a planning authority has previously determined

¹⁴ Appeal of High Court judgment [2020] IEHC 25. High Court judgment, in which the ABP decisions were quashed, was upheld.

							substantially the same question in respect of the same land and where there is no evidence of a change in planning facts and circumstances since the planning authority's determination.
128.	23/11/2021	2020 176 JR	[2021] IEHC 745	Spectre (Shelbourne) Limited v ABP	Challenge to ABP decision under s.5 PDA 2000 that change of use of a floor of a building in Dublin 4 to an embassy office is development and is not exempted development.	ABP decision quashed	<p>Basis for decision to quash ABP decision:</p> <ul style="list-style-type: none"> • Board's conclusion was based on the principle that an embassy does not constitute an office. However, in circumstances where the referral did not involve use as an embassy, but as an embassy office, the Court held that the basis for the Board's conclusion was irrational and took account of irrelevant considerations. <p>Court also held:</p>

							<ul style="list-style-type: none"> • ABP failed to consider the exercise of its discretion; • ABP erred in law in failing to take account of the case law of the High Court on the issues. <p>However, on these two issues, the Court concluded that these errors did not of themselves warrant an order quashing the ABP decision.</p>
129.	21/12/2021	2020 No. 480 JR	[2021] IEHC 783	Massey v ABP & Ors	<p>Challenge to ABP decision pursuant to s.37A PDA 2000 that planning application for a windfarm development in Co. Cork & Co. Waterford be classified as SID.</p> <p>Main points in case:</p> <ul style="list-style-type: none"> • Whether the proposed development is an “installation”; • Does the proposed development have a total output of more than 50 megawatts? • Did the applicant submit sufficient information; • Did ABP correctly apply the test to the information supplied? 	Application against ABP dismissed. Case against the State, not involving ABP, adjourned generally.	

130.	21/12/ 2021	2018/17 JR	[2021] IEHC 834	Donnelly & Anor v ABP	<p>Challenge to ABP decision granting planning permission (on appeal) for a waste processing plant near Cavan Town.</p> <p>Main points in the case:</p> <ul style="list-style-type: none"> • question of whether leaving matters over for agreement post consent was permissible where there was a potential adverse effect on a European site; • Adequacy of AA carried out; • Argument that conditions requiring mitigation measures to be implemented in full, and points of detail conditions, were too broad; • Lack of reasons for dropping a particular condition recommended by the inspector; • Alleged bias. • Difference in wording re a particular condition proposed by the inspector and by the Board. 	Application refused	
131.	07/01/ 2022	2021 No. 419 JR	[2022] IEHC 5	Dublin City Council v ABP	<p>Challenge to ABP's refusal to approve (under s.170A PDA 2000) an amendment to a planning scheme for a Strategic Development Zone (SDZ) (the North Lotts & Grand Canal Dock SDZ).</p>	<p>ABP conceded the challenge.</p> <p>By consent, quash ABP's Direction of 16 March 2021 and its Order of 23 March 2021.</p> <p>Remit to the Board for consideration, to</p>	<p>The Board's Direction and Order (deciding not to approve the amendments to the planning scheme) contained statements noting the necessity for SEA and AA and referring to the inadequacy of the SEA and AA information submitted by the applicant; the Court found</p>

						a point immediately prior to its Direction of 16 March 2021. ¹⁵	these statements misunderstood the earlier 'procedural history' of the application within ABP (in which there had been a screening determination, as part of which the Board's Inspector considered that neither SEA nor AA was required. Court also found that the Board's Direction/Order misunderstood/misconstrued the nature and purpose of certain environmental information submitted by the applicant.
132.	10/01/2022	2020 No. 816 JR	[2022] IEHC 7	Ballyboden Tidy Towns Group v ABP & Ors	Challenge to ABP's decision to grant permission for large-scale residential development (SHD).	Quash ABP decision to grant permission.	Court found ABP: - failed to recognise a material contravention of the Development Plan as to density and address it as such.

¹⁵ In disagreeing with Board's assertion for a remittal to an early stage of the process, the Court considered it would not be in the public interest to compel a repetition of lengthy processes that had already taken place, having regard to the length of time (in excess of 1 year, the Court noted) taken by the Board to decide the application following its Inspector's report.

							- failed to consider a relevant consideration, namely the capacity of the public transport network and to give adequate reasons for its decision on density in that context. Inadequate reasons on the traffic issue. ¹⁶
133.	16/02/2022	Supreme Court Record No. S:AP:IE: 2021:000091	[2022] IESC 8 ¹⁷	An Taisce – National Trust for Ireland v ABP & ors	Challenge to ABP decision to grant planning permission for a cheese factory in Co. Kilkenny. Main points in the case: <ul style="list-style-type: none"> • Alleged breach of Habitats Directive; • Alleged breach of Water Framework Directive; • Alleged breach of National Emissions Ceiling Directive; • Scope of duty to assess the indirect effects of a project for the purposes of the EIA Directive and the Habitats Directive. 	Application refused (Supreme Court upheld High Court judgment).	
134.	25/02/2022	2020 No. 74 JR	[2022] IEHC 83	Flannery & Ors v ABP O’Sullivan v ABP	Challenge to ABP permission (granted on appeal) for residential development and sports facilities on recreational open space lands.	Certiorari granted to applicant in each of the three cases, quashing ABP’s decision to grant permission.	Court considered the Board did not adequately address a number of the specific Development Plan requirements/criteria to be satisfied before

¹⁶ Specifically in relation to the disagreement between traffic experts/methodologies.

¹⁷ Appeal of High Court judgment [2021] IEHC 254. High Court refused application for relief. Supreme Court upheld High Court judgment.

		2020 No. 75 JR		Carroll & Anor -v- ABP			<p>permission for residential development could be granted on lands zoned Z9 (<i>' to preserve, provide and improve recreational amenity and open space and green networks'</i>).</p> <p>Board also failed to give reasons for rejecting/not accepting certain third party submissions (relating to impact of the proposed development on an existing access way; and ball impacts on the windows of proposed new apartment development).</p> <p>Board also failed to engage with or give reasons for not accepting what, per the Court, was <i>'the standout section of the Council's decision'</i> (namely, that allowing the proposed development to proceed in a Z9 zoned area would set an undesirable precedent).</p> <p>Also, an Error of Fact: (the statement in the Board's</p>
--	--	----------------------	--	---------------------------	--	--	--

							Direction that the development would result in a '17%' reduction of open space was inaccurate and an underestimate of the reduction.
135.	04/03/2022	2019 No. 566 JR	[2022] IEHC 117	O'Sullivan v ABP	Challenge to ABP decision to grant permission for a high-performance training Centre for rowing at Blessington Lake. Claim based on inadequate AA, inadequate assessment of cumulative impact, inappropriate planning conditions and failure to undertake an EIA 'preliminary examination'.	Quash ABP decision to grant permission	The Court found that that Inspector's statement/conclusion that there was no potential for adverse (environmental) impact was 'not sustainable' and at variance with the evidence and information available to the Inspector/Board regarding the level of increased user/activity at the lake should permission be granted.
136.	16/03/2022	2021 No. 492 JR	[2022] IEHC 147	Manley Construction Ltd v ABP	Challenge by Developer to ABP's refusal of permission for SHD residential development.	Application dismissed	
137.	16/03/2022	2021 No. 289 JR	[2022] IEHC 146	Heather Hill Management Company CLG v ABP	Challenge to ABP decision to grant planning permission for large-scale (SHD) residential development; Claims based on flood risk assessment test; inadequate AA and EIA.	Application refused.	
138.	28/03/2022	2020 No. 239 JR	[2022] IEHC 177	Stanley v ABP	Challenge to validity of ABP's determination under s.5 PDA (that a change of use was 'material' and was	Application refused.	

					therefore 'development' and not 'exempted development'). Claim based on inadequate reasons and unreasonableness.		
139.	01/04/2022	2021 No. 304 JR	[2022] IEHC 172	Walsh v ABP	Challenge to ABP permission to authorise an increase in the height of an already-permitted SHD residential development. Claim based on lack of fair procedures; error on the face of the record; and on erroneous daylight analysis and related improper exercise of ABP's power to grant permission in material contravention	Quash ABP decision to grant permission	Erroneous daylight analysis by ABP Inspector: as one of the pre-requisites to granting SHD permission in material contravention of the Development Plan (in this case the Development Plan limits on building height) the Board, via its Inspector, did not clearly identify the extent of non-compliance with development management standards/criteria relating to daylight (set out in the Building Height Guidelines).
140.	27/04/2022	2020 No. 967 JR	[2022] IEHC 256	Martin v ABP	Application (in a 'telescoped hearing') for leave to apply for judicial review (certiorari) against ABP decision to grant permission for a meteorological mast and associated works at a wind farm site. Claims based on failure to consider the development a 'project' for EIA purposes and inadequate no. of public notices on the public roads.	Application for leave dismissed.	

141.	04/05/ 2022	2020 No. 373 JR	[2022] IEHC 257	Madden v ABP	Challenge to ABP decision to refuse permission for construction of a single dwelling, wastewater treatment system and associated works. Applicant claimed irrationality in relation of ABP's conclusion on AA; Case also concerned appropriated standard of review of ABP's actions/conclusions in relation to AA.	Application refused.	
142.	31/05/ 2022	2020 No. 737 JR	[2022] IEHC 318	Monkstown Road Residents Association & Ors v ABP & Ors	Challenge to ABP's SHD permission.	Quash ABP's decision to grant planning permission.	<p>Court found Developer's EIA Screening Report was deficient and the Board erred in adopting that Report which did not described effects adequately and could not provide a basis for a determination that EIA was not required.</p> <p>Court found the Board did not give adequate reasons for its EIA screening decision as to insignificance of effect on cultural heritage</p> <p>Also, the Board was, <i>per</i> the Court, '<i>erroneously reliant on SPPR1 of the Height Guidelines.</i>'</p>

143.	30/03/ 2012	2010 No. 1250 JR	[2012] IEHC 146	Dunne & Mulryan v ABP	Certiorari sought of two decisions of the Board under section 34(5) PDA [s.34(5) provides for the Board to adjudicate where a planning authority and a grantee of planning fail to agree on 'points of detail' that, under a planning condition, are to be the subject of agreement between the planning authority and the grantee of permission]. The Judicial Review Applicants claimed that the Board, in adjudicating under s. 34(5) on issues related to development contributions, exceeded its jurisdiction by taking extraneous matters into account.	Certiorari refused.	
144.	04/07/ 2022	S: AP IE:2021: 000147	[2022] IESC 30 ¹⁸	Waltham Abbey Residents Association v ABP & Ors	Appeal by the Board to the Supreme Court against High Court decision that held that the Board's SHD permission was invalid. The High Court had found the requirement in s.299B(1)(b)(ii)(II)(C) of P&D Regs 2001 that a ' <u>statement</u> ' to be provided to the Board (regarding how the available results of other relevant assessments of environmental effects – other than under the EIA Directive - have been taken into account) requires a <i>distinct identifiable document</i> in that regard being included in an SHD planning application.	Allow the appeal and uphold the validity of the ABP decision. Supreme Court found that it was sufficient for the Board to have received and considered the information otherwise than in the form of a specific statement.	

¹⁸ Appeal of High Court Judgment [2021] IEHC 312 in which the ABP decision had been quashed, Supreme Court overturned the High Court judgment

145.	04/07 2022	S: AP IE:2021: 000147	[2022] IESC 30 ¹⁹	Pembroke Road Association v ABP & Ors,	<p>Appeal by Resident's Association against High Court Decision refusing to invalidate the Board's SHD permission.</p> <p>Residents Association Appellant argued:</p> <p>That ABP breached the requirement in s.299B(1)(b)(ii)(II)(C) of P&D Regs 2001. That provision requires the developer to provide a '<u>statement</u>' to be provided to the Board (regarding how the available results of other relevant assessments of environmental effects – other than under the EIA Directive. It was argued that the Board must receive such information in the form of a <i>distinct identifiable document</i>.</p> <p>That in relying on s.146A PDA (which allows the Board to correct clerical errors or to facilitate the doing of anything regarded as being within the contemplation of the permission) in order to amend a reference in a planning condition to record/reflect the correct statutory provision under which development contribution /levies were imposed, that the Board went outside the scope of what s.146A was intended for.</p>	Reject appeal and uphold the validity of the Board's decision.	
------	---------------	-----------------------------	------------------------------------	---	--	--	--

¹⁹ Appeal of High Court Judgment [2021] IEHC 403 in which the ABP decision had been upheld, Supreme Court upheld the High Court judgment

146.	31/05/ 2022	Court of Appeal Record No. 2021/19 2	[2022] IECA 123 ²⁰	Heaney v ABP	Challenge to decision by ABP to grant permission for certain development on a farm. Main points in the case: <ul style="list-style-type: none"> • Invalidity of AA screening • Question of whether the application for leave had been made in time. 	Proceedings dismissed for being out of time	
------	----------------	---	-------------------------------------	--------------	---	---	--

²⁰ Appeal of High Court judgment [2021] IEHC 201. Court of Appeal upheld High Court judgment. Proceedings dismissed for being out of time.