



Planning and Development Acts 2000 to 2019

Planning Authority: Donegal County Council

Planning Register Reference Number: S5 19/26

WHEREAS a question has arisen as to whether land reclamation through re-contouring of lands within farm holdings at Binnion, Clonmany, County Donegal is or is not development or is or is not exempted development:

AND WHEREAS William and Paidin Doherty care of Harley Planning Consultants Limited of 1 Melmount Park, Strabane, County Tyrone requested a declaration on the said question from Donegal County Council and the Council issued a declaration on the 11th day of November, 2019 stating that the matter was development and was not exempted development:

AND WHEREAS William and Paidin Doherty referred the declaration for review to An Bord Pleanála on the 6th day of December, 2019:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) sections 2(1), 3(1) and 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (b) Section 177U(9) of that Act,
- (c) articles 6(1), 6(3), 8C and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (d) Parts 1 and 3 of Schedule 2 to those Regulations,
- (e) the planning history of the site, and
- (f) the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the excavation and removal of rock within the subject site constitutes development and falls within the definition of quarrying,
- (b) the excavation and removal of rock from field B as identified on the mapping submitted by the landowners/occupiers is stated to form part of the land reclamation works carried out in part and proposed within fields A, B, C, E and F as identified on the mapping submitted by the landowners/occupiers, being the farm holding concerned,
- (c) the excavation and removal of rock from field D as identified on the mapping submitted by the landowners/occupiers is not stated to form part of the land reclamation works at this farm holding, carried out in part

and proposed within fields A, B, C, E and F as identified on the mapping submitted by the landowners/occupiers,

- (d) the excavation and removal of rock from field B as identified on the mapping submitted by the landowners/occupiers, where such rock is used solely for land reclamation within the farm holding that includes this field, comes within the scope of article 8C,
- (e) the re-contouring of lands within fields A, B, C, E and F, consisting of land reclamation of the farm holding in question, comes within the scope of article 8C,
- (f) the excavation and removal of rock from field D does not come within the scope of article 8C, as this field does not form part of the farm holding, and no other exempted development provision under the Regulations applies, and
- (g) the development would not be likely to have a significant effect on North Inishowen Coast Special Area of Conservation (Site Code: 002012) or any other European site:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3)(a) of the 2000 Act, hereby decides that

- (a) land reclamation through re-contouring of lands at Binnion, Clonmany, County Donegal is development and is exempted development, where it has taken place or is intended to take place within fields A, B, C, E and F, and
- (b) the activity which has taken place at field D is development and is not exempted development, as this field does not form part of the farm holding.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020.