



An
Bord
Pleanála

Board Direction
ABP-301780-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on December 17th 2018.

The Board decided, as set out in the following Order, that the temporary open storage of scaffolding and miscellaneous building materials at Tullydonnell Townland, Togher, Co. Louth, is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the temporary open storage of scaffolding and miscellaneous building materials at Tullydonnell Townland, Togher, Co. Louth, is or is not development or is or is not exempted development.

AND WHEREAS Colm Doyle requested a declaration on this question from Louth County Council and the Council issued a declaration on the 4th day of May, 2018 stating that the matter was development and was not exempted development:

AND WHEREAS Colm Doyle referred this declaration for review to An Bord Pleanála on the 31st day of May, 2018:

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

- (a) Sections 2(1), 3, 4(1)(a), 4(1)(h), 4(1)(j) and 4(4) of the Planning and Development Act, 2000, as amended,
- (b) Articles 5, 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Class 16 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) The planning history of the site and in particular planning permission register reference number 02/1499, and conditions 1 and 6 of that permission.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The placing of scaffolding and miscellaneous building materials on the lands that are the subject of the referral represents a change of use of the lands from their authorised use for agriculture;
- (b) This change of use raises material planning matters including visual amenity issues, and uses that are neither agricultural in nature nor incidental to the use of the adjacent dwelling, and hence impact on matters of agricultural policy in the relevant Development Plan and matters of residential amenity, and accordingly this change of use is a material change of use of the lands, and is therefore development;
- (c) Class 16 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended, relates to the temporary placing of structures, works, plant or machinery on lands on or adjacent to a development site, during the period in which the development is being carried out. It requires that such items be removed at the expiration of this period and the lands reinstated and as such it does not facilitate ongoing

storage on the basis that such items may be required at some future date in connection with permitted or exempted development,

- (d) the lands that are the subject of the referral do not comprise a development site, as no development consisting of works pursuant to a permission or as exempted development are currently being undertaken on these lands that would require the use of the significant quantities of scaffolding and miscellaneous building materials stored thereon, and the Board is not satisfied, on the basis of the submissions made, that such development is about to be carried out on these lands,

- (e) the placing of scaffolding and miscellaneous building materials on the lands that are the subject of the referral therefore does not come within the scope of Class 16 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended, as the lands in question are not a development site, nor within the scope of any other exemption provided for in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations 2001, as amended, and therefore is not exempted development, and

- (f) In any event, any exemption that might apply to this storage is restricted, pursuant to Article 9(1)(a)(i) of the Planning and Development regulations, 2001, as amended, as the lands that are the subject of the referral were to be developed as a woodland area, and under condition number 6 of that permission, such woodland area was to be planted and permanently retained thereafter. In addition, under condition number 1 of that permission, the development in question was to be exclusively used for the purposes of agriculture and no other use including commercial storage was permitted without the prior consent of the planning authority given by way of a planning application. Accordingly, the storage of scaffolding and miscellaneous building materials on these lands, whether on a temporary or permanent basis, would contravene these conditions of that planning permission, and therefore is not exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the temporary open storage of scaffolding and miscellaneous building materials at Tullydonnell Townland, Togher, Co. Louth, is development and is not exempted development.

Board Member

Date: 17th December 2018

Philip Jones