



An
Bord
Pleanála

Board Direction
ABP-303734-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 4th June, 2019.

The Board decided, as set out in the following Order, that

WHEREAS a question has arisen as to whether the infilling and drainage of wetlands and the construction of a road on lands at Collinstown, Co. Westmeath is or is not development and is or is not exempted development:

AND WHEREAS NPWS requested a declaration on this matter from Westmeath County Council:

AND WHEREAS Westmeath County Council referred this request to An Bord Pleanála on the 14th day of February, 2019:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1), and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 and Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area and

(h) the Report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

(a) the infilling and drainage of wetlands and construction of an access road constitutes works that come within the scope of section 2(1) of the Planning and Development Act, 2000,

(b) the said works constitute development that comes within the scope of section 3(1) of the said Act,

(c) the said works do not clearly and unambiguously come within the scope of the exemption provided under article 6(1) and Part 1 and Part 3 of Schedule 2 of the said Regulations,

(d) the said works do come within the scope of the restrictions on exemptions set out at:

-article 9 (1)(a)(ii) of the Planning and Development Regulations, 2001 (as amended), whereby the works consisted of the material widening of a means of access to a public road, the surfaced carriageway of which exceeds 4 metres in width;

- article 9 (1)(a)(viiB)) of the said Regulations, whereby the works comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European Site; and

- article 9 (c) of the said Regulations, whereby the need for Environmental Impact Assessment cannot be excluded.

(e) Furthermore, the said works do come within the scope of the restrictions on exemptions set out under section 4 (a) of the Planning and Development Act 2000 (as amended) insofar as it is considered that the need for Appropriate Assessment and Environmental Impact Assessment cannot be excluded:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) of the 2000 Act, hereby decides that the (1) infilling and drainage of land and (2) the construction of a road on lands at Collinstown, Co. Westmeath is development and is not exempted development.

Board Member:

Date: 04/06/2019

Terry Ó Niadh