



An  
Bord  
Pleanála

**Board Direction**  
**ABP-305482-19**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/07/2020.

The Board decided by a majority of 2:1 as set out in the following Order, that

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the quarrying of lands at Binnion, Clonmany, County Donegal, is or is not development or is or is not exempted development.

**AND WHEREAS** Donegal County Council referred this question to An Bord Pleanála for determination, on the 20<sup>th</sup> day of September 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) Section 177U(9) of the Planning and Development Act, 2000, as amended,

- (e) article 6(1), article 6(3), article 8C and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (g) the planning history of the site, and
- (h) 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 farmholding concerned;
- (c) the excavation and removal of rock from field D as identified on the mapping submitted by the landowners/occupiers does not 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;
- (d) the excavation and removal of rock from field B, were such rock is used solely for land reclamation works within the farmholding that includes this field comes within the scope of article 8C;
- (e) 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 farmholding, and no other exempted development provision under the Regulations applies;

- (f) the development would not be likely to have a significant effect on North Inishowen Coast SAC (Site Code: 0020120 or any other European site.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (4) of the Planning and Development Act, 2000, as amended, hereby decides that the quarrying of lands at Binnion, Clonmany, County Donegal is development and is exempted development, where it has taken place within field B insofar as the material removed is used/to be used solely for land reclamation works within the remainder of the farmholding, and is development and is not exempted development where it has taken place with field D as this field does not form part of the farmholding.

In deciding not to accept the recommendation of the Inspector that the entirety of the development should be determined to not be exempted development, the Board considered that the quarrying activity within field B, falls within the meaning of land reclamation works on a farmholding, as per article 8C and considered also that farmholding is not determined solely by reference to legal title.

**Board Member:**

**Date:** 09/07/2020

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Chris McGarry