



An
Bord
Pleanála

Board Direction
ABP-306362-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/09/2020.

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

WHEREAS a question has arisen as to whether ground excavation, alterations and demolition of private and public property at Narin and Portnoo Links Golf Course and at Castlegoland Beach, is or is not development or is or is not exempted development.

AND WHEREAS Tony Kitterick, requested a declaration on this question from Council, and the Council issued a declaration on the 6th day of December 2019, stating that the matter is development and is exempted development.

AND WHEREAS Tony Kitterick referred this declaration for review to An Bord Pleanála, on the 9th day of January 2020.

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

- (a) Section 2 and Section 3 of the Planning and Development Act 2000 (as amended)

- (b) Article 6 of the Planning and Development Regulations 2001 (as amended) and in particular,
- (c) Class 34 of Part 1 of Schedule 2, to the Planning and Development Regulations 2001 (as amended),
- (d) Article 9(1)(a)(i), (iii), (vi), (vii), (viiB), (viiC), (viii) and (xi) of the Planning and Development Regulations 2001 (as amended).
- (e) The description of the works set out in the referral and the nature of the works and activities undertaken, which incorporate specific works at two defined locations which can be described as , the removal of soil in a fairway to form a natural sand bunker at area A and the cultivation, harvesting and replanting of marram grass at area B and which do not comprise demolition;
- (f) the submissions on file, and
- (g) the report of the Inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) In relation to area A as described in the referral documentation, the removal of soil in a fairway to form a natural sand bunker constitutes works within the meaning of Section 2 of the Planning and Development Act 2000 (as amended) and constitutes development within the meaning of Section 3 of the Planning and Development Act 2000 (as amended);
- (b) The development at area A falls within the scope of Class 34 of Part of Schedule 2 to the Planning and Development Regulations 2001, (as amended), being works incidental to the maintenance and management of a golf course and therefore constitutes exempted development;
- (c) In relation to area B as described in the referral documentation, the cultivation, harvesting and replanting of marram grass constitutes works within the meaning of Section 2 of the Planning and Development Act 2000 (as amended) and constitutes development within the meaning of Section 3 of the Planning and Development Act 2000 (as amended);

- (d) The development at area B falls within the scope of Class 34 of Part of Schedule 2 to the Planning and Development Regulations 2001, (as amended), being works incidental to the maintenance and management of a golf course and therefore constitutes exempted development;

- (e) The development at area B is de-exempted by reference to article 9(1)(a)(viiB), since it comprises development which the Board as the competent authority, has determined would require an appropriate assessment, on the basis that likely significant effects on the integrity of European Site, the West of Ardara/Maas Road SAC (site code 000197) cannot be ruled out.

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 works at area A are development and are exempted development and the works at area B are development and are not exempted development. .

Board Member:

Date: 01/10/2020

Chris McGarry