



An
Bord
Pleanála

Board Direction
ABP-306518-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/05/2020.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the construction of a slatted unit at Roscliff, Ballynacally, County Clare, is or is not development or is or is not exempted development.

AND WHEREAS Fintan Meaney, requested a declaration on this question from Clare County Council, and the Council issued a declaration on the 19th day of December 2019 stating that the matter is development and is not exempted development.

AND WHEREAS Fintan Meaney referred this declaration for review to An Bord Pleanála, on the 23rd day of January 2020.

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) Class 6 Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the nature and extent of development on the site,
- (g) the location of the Ballycanally Creek on the northern boundary of the site which flows directly into the Lower River Shannon SAC (Site Code 002165) at close proximity,
- (h) the submissions on file, and
- (i) the report of the Inspector;

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The proposed works are development as defined in Section 3 of the Planning and Development Act 2000, as amended,
- (b) The proposed works would come within the scope of Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations,
- (c) The proposed works are consistent with the conditions and limitations of this Class,
- (d) Based on the submitted details it is not possible to state beyond reasonable doubt that the proposed development would not have a significant negative impact on a European Site. Accordingly, the subject development would not constitute exempted development having regard to the restrictions on exemption set out in article 9(1)(a)(viiB) as it would 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.

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 construction of a slatted unit at Roscliff, Ballynacally, Co Clare is development and is not exempted development.

Board Member:

Date: 29/05/2020

Chris McGarry