

An
Bord
Pleanála

Board Direction
ABP-307488-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/10/2021.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether

- (a) The 'quarrying activity' on the lands is development;
- (b) The 'quarrying activity' comes within the scope of a pre-1964 established use of the site;
- (c) The 'quarrying activity' is exempted development under S4(1) of the Planning & Development Act 2000 (as amended); and
- (d) The repair of internal private roads within the lanholding comes within the scope of Class 13 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Martin Arthur requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 22nd day of June, 2020 stating that the matter was development and was not exempted development:

AND WHEREAS Martin Arthur referred this declaration for review to An Bord Pleanála on the 1st day of July, 2020:

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

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Section 4(1)(f) (g) and (l) of the Planning and Development Act, 2000, as amended,
- (c) Section 4(4) 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 13 of Part 1 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.

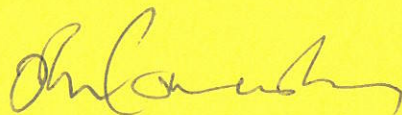
AND WHEREAS An Bord Pleanála has concluded that:

- (a) The use of the lands for 'Quarrying Activity' comprising excavation, storage and transport of stone material comes within the scope of 'works' and 'quarry' as set out in Section 2 of the Planning and Development Act 2000 (as amended), and therefore constitutes development as defined in Section 3 of the Act.
- (b) The information before the Board is not sufficient to enable a determination to be made in relation to the planning status of the quarry in terms of whether it was established before the 1st day of October 1964 or whether there has been any intensification and/or

- abandonment of the use of the lands since the 1st day of October 1964, which would have given rise to a requirement for planning permission.
- (c) The development does not come within the scope of any exemption under Section 4 of the Planning and Development Act 2000 (as amended).
 - (d) The development does not come within the scope of any exemption provided for under Article 6 and Schedule 2 of the Planning and Development Regulations 2001 (as amended).
 - (e) The information before the Board is not sufficient to enable a determination as to whether the development would require an Environmental Impact Assessment and/or an Appropriate Assessment which would exclude it from any exemption by reference to Section 4(4) of the Planning and Development Act 2000 (as amended) and/or Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001(as amended).

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the said works involving 'quarrying activity' at Reenagappul, Kenmare Co. Kerry is development and is not exempted development.

Board Member:



John Connolly

Date: 11/10/2021