



An
Bord
Pleanála

Board Direction
ABP-307625-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/04/2021.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the groundworks undertaken, including importation and deposition of fill material to create a hardstanding area and the raising of ground levels from 2013 onwards is or is not development or is or is not exempted development:

AND WHEREAS Pat Quinn requested a declaration on this question from Clare Council and the Council referrer such to An Bord Pleanála on the 17th day of July 2020 stating that the matter was development and was not exempted development:

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) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, and
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) that the groundworks undertaken, including importation and deposition of fill material to create a hardstanding area and the raising of ground levels from 2013 onwards is works.
- (b) the works constitute development pursuant to section 3 of the Planning and Development Act, 2000;
- (c) the works do not fall within the scope of the drainage works scheme to the River Fergus and therefore do not come under the scope of Article 8 or Class 16 of Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- (d) the works would require an appropriate assessment because they would be likely to have a significant effect on the integrity of a European site, and would not be exempt by virtue of Article 9(1)(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 (4) of the 2000 Act, hereby decides that the groundworks undertaken, including importation and deposition of fill material to create a hardstanding area and the raising of ground levels from 2013 onwards is development and is not exempted development.

Board Member:

Date: 16/04/2021

Maria FitzGerald