



An
Bord
Pleanála

Board Direction
ABP-309387-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/06/2021.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the replacement of a wastewater treatment plan at Brittas Bay, County Wicklow is or is not development or is or is not exempted development:

AND WHEREAS Potters Point Ltd of Brittas Bay, County Wicklow requested a declaration on this question from Wicklow County Council and the Council issued a declaration on the 8th day of January, 2021 stating that the matters in question were development and were not exempted development:

AND WHEREAS Potters Point Ltd referred the declaration for review to An Bord Pleanála on the 4th day of February, 2021:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Classes 41 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,

(d) The licence issued to Potters Point Ltd under Section 34 of the Local Government (Sanitary Services) Act 1948 and the Discharge Licence issued to Potters Point Ltd under the Local Government (Water Pollution) Act, 1977,

(e) the absence of an Appropriate Assessment Screening Report for the replacement wastewater treatment plant,

(e) the submissions on file, including photographs submitted by the referrer, and

(f) the report of the Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

(a) the provisions of Section 4(1)(h) are not applicable as the development involves the replacement of an existing wastewater treatment plant with a new wastewater treatment plant,

(b) the replacement wastewater treatment plant does not comprise works consisting of or, incidental to, the carrying out of any works on land which are in accordance with, and necessary for compliance with, the terms of the licence granted to Potters Point Ltd under Section 34 of the Local Government (Sanitary Services) Act 1948 and the Discharge Licence issued to Potters Point Ltd under the Local Government (Water Pollution) Act, 1977 and therefore the exemptions provided under Class 41 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, are not applicable,

(c) there are no other provisions, in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, whereby this development would be classified as exempted development, and this development is, therefore, not exempted development,

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 replacement of a wastewater treatment plan is development and is not exempted development, at, Brittas Bay, County Wicklow.

Note: The Board also noted the Inspector's Assessment on Appropriate Assessment issues and considered that an Appropriate Assessment Screening Report would also have been required in order to determine whether the replacement wastewater treatment plant would require a Natura Impact Statement and would consequently be considered to not be exempted development with reference to Section 4(4) of the Planning and Development Act, 2000 (as amended).

Board Member: Maria FitzGerald
 Maria FitzGerald

Date: 09/06/2021

