



An  
Bord  
Pleanála

Board Direction  
ABP-309575-21

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/11/2021.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the on-site surface water management/removal of surface water discharge is or is not development and is or is not exempted development.

**AND WHEREAS** Booth Precast Limited requested a declaration on this question from Laois County Council and the Council issued a declaration on the 1<sup>st</sup> day of February, 2021 stating that the matter was development and was not exempted development

**AND WHEREAS** Booth Precast Limited referred this declaration for review to An Bord Pleanála on the 26<sup>th</sup> day of February, 2021:

**AND WHEREAS** An Bord Pleanála, in considering this referral, has reframed the question as to whether revisions to the on-site management of surface water within an existing facility for the manufacture of concrete products as detailed on Drg. No.

20-056-P-02-00 including the creation of new surface water / silt ponds, re circulation of surface water on site and the cessation of surface water discharge to adjoining watercourse is or is not development and is or is 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)(h) 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 21 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, and
- (g) the report of the Inspector;

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) That the referral includes elements such as the excavation of new ponds, connecting pipes and pump equipment / pump house which comprise works and therefore come within the scope of the definition of development as set out at Section 3 of the Planning and Development Act 2000, as amended.
- (b) That the nature of the works the subject of this referral are such that they do not all relate to a 'structure' as defined in Section 3 of the Planning and Development Act 2000, as amended and are therefore such that the exemption provided for under Section 4(1)(h) of the Act is not applicable. Specifically, it is considered that the excavation of Silt Pond / Lagoon (Nos. 1 and 2 on Drawing. No. 20-056-P-02-00), the installation of new pipework and the construction of the new pump houses (identified as No. 6 and No.15 on Drg. No. 20-056-P-02-00) are not existing structures and that the exemption



provided for under Section 4(1)(h) for the carrying out of works to such existing structures is not therefore applicable to these features. Works to the existing pumping arrangement and the closure of the existing surface water discharge from the site are works to existing structures and are therefore exempted development under s.4(1)(h),

- (c) that the referrer comes within the definition of a statutory undertaker as defined in Article 3 of the *Planning and Development Regulations, 2001* (as amended) and that the activity undertaken on the site is an industrial undertaking.
- (d) That the laying of new pipes connecting the new pump houses (No. 6 and No. 15 on Drawing No. 20-056-P-02-00) to the new ponds and connecting the new ponds to each other are considered to constitute the laying of pipes or other apparatus that fall within the scope of Class 21 (a)(ii) of the *Planning and Development Regulations, 2001 (as amended)* and that the conditions and limitations on this class are met as they relate to these works.
- (e) That the new pump house installations indicated at Nos. 6 and 15 on Drg. No. 20-056-P-02-00 are such that they would come within the scope of Class 21(a)(iii) comprising the installation of additional plant or machinery, and that the conditions and limitations on this class are met as they relate to these works.
- (f) That the closure of the existing water discharge from the site comes within the scope of Class 21(a)(ii) relating to the provision, rearrangement, replacement or maintenance of sewers or pipes and that the conditions and limitations on this class are met as they relate to these works,
- (g) That the constructed silt ponds/lagoons do not come within the scope of Class 21 (a)(ii) or (iii). In addition and in any case, the silt ponds/lagoons by their nature and scale would materially alter the external appearance of the land area on which they are located,
- (h) That none of the restrictions on exemptions set out in Article 9 of the *Planning and Development Regulations, 2001* (as amended) are applicable to the circumstances of this case, and



- (i) That the works which are the subject of this referral are not considered such as to have any likely significant effects on any European sites in light of the conservation objectives of the relevant sites.

**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 revisions to the on-site management of surface water within an existing facility for the manufacture of concrete products as detailed on Drg. No. 20-056-P-02-00 including the creation of new surface water / silt ponds/lagoons, re circulation of surface water on site and the cessation of surface water discharge to adjoining watercourse,

- (1) is development and is not exempted development insofar as it relates to the development of two silt ponds/lagoons and,
- (2) is development and is exempted development insofar as it relates to the installation of new pipework and the construction of the new pump houses (identified as No. 6 and No.15 on Drg. No. 20-056-P-02-00) and works to the existing pumping arrangement and to the closure of the existing surface water discharge from the site.

**Board Member:**



Chris McGarry

**Date:** 07/12/2021