



An
Bord
Pleanála

**Board Direction
ABP-309964-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/01/2022.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the use of an outdoor gantry loading crane is or is not development or is or is not exempted development

AND WHEREAS Booth Precast Limited requested a declaration on this question from Laois Council and the Council issued a declaration on the 22nd day of March, 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 16th day of April, 2021:

AND WHEREAS In the interests of clarity, An Bord Pleanála amended the wording of this question as follows: "Whether the erection of an outdoor gantry mounted crane, an addition to an existing gantry crane located

within an existing shed, 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)(i) and 9(1)(viii) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 21 of Parts 1 Schedule 2 to the Planning and Development Regulations, 2001, as amended, and
- (f) the planning history of the site,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the referral relates to the erection of an outdoor gantry mounted crane which comprises works and therefore comes within the definition of development as set out at s.3 of the Planning and Development Act as amended.
- (b) the existing shed structure on site comprises a structure as defined in the Act and therefore comprises a structure for the purposes of s.4(1)(h) of the Planning and Development Act, 2000 (as amended),
- (c) the scale and location of the works undertaken are such that the addition of the gantry crane external to the permitted shed are considered to comprise works that comprise an addition to the existing structure rather than works for the maintenance,

improvement or other alteration as specified in s.4(1)(h) and are therefore such that the works do not come within the scope of s.4(1)(h).

- (d) the nature and location of the works the subject of the referral are such as to not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.
- (e) the referrer comes within the definition of 'industrial undertaker' set out in Article 5(1), is undertaking an industrial activity and the form of gantry crane erected on the site is considered to come within the scope of Class 21(a)(iii) of Part 1 of the Second Schedule of the Planning and Development Regulations, 2001 (as amended) comprising the addition of plant or machinery or structures of the nature of plant or machinery.
- (f) Based on the information available the Board is not satisfied that the shed structure, to which the external gantry crane the subject of this referral is added, has been constructed in accordance with the permission granted (ABP Ref. PL11.239206) and therefore the development, as constructed, does not meet the requirements of sub paragraphs (i) and (viii) of Article 9 of the Planning and Development Regulations, 2001 (as amended).
- (g) 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 the erection of an outdoor gantry mounted crane, an addition to an existing gantry crane

located within an existing shed, is development and is not exempted development.

Board Member: Maria FitzGerald Date: 17/01/2022
Maria FitzGerald