

An
Bord
Pleanála

Board Direction
ABP-310385-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/01/2022.

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

Board Order as follows:-

WHEREAS a question has arisen whether the proposed use of part of a golf course as a GAA playing pitch at St. Mary's Park Road, Moneyatta Commons, Saggart, Co. Dublin, is or is not development and is or is not exempted development:

AND WHEREAS Burnella Cottages Limited, care of Alan Whelan, O'Connor Whelan Limited, 222 – 224 Harold's Cross Road, Dublin 6W requested a declaration on this question from South Dublin County Council and the Council issued a declaration on the 13th day of May 2021 stating that the matter is development and is exempted development:

AND WHEREAS Burnella Cottages Limited referred this declaration for review to An Bord Pleanála, on the 1st day of June 2021:

AND WHEREAS having regard to the nature of the referral, An Bord Pleanála, is satisfied that, in the particular circumstances, the referral should not be further considered by it:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 138(1)(b)(i) of the Planning and Development Act, 2000, hereby dismisses the said referral, based on the reasons and considerations set out below.

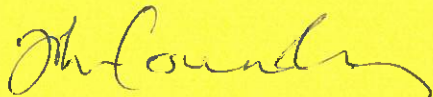
Reasons and Considerations

Having regard to:

- (a) the separate determination by the planning authority on the 8th day of February 2021, under planning register reference ED21/0004, of the same or substantially the same question in respect of the same land, and
- (b) the fact that the planning authority's determination has not been successfully challenged by way of section 50 of the Planning and Development Act 2000, as amended, and
- (c) the fact that a different determination has not been made on the same or substantially the same question in respect of the same land, on the basis that a change in planning facts or circumstances had occurred,

it is considered that the subject referral amounts to an impermissible attack on the planning authority's section 5 declaration which, in substance, questions the validity of that declaration other than by way of section 50 of the Act, where such a challenge is prohibited by section 50(2) of the Act.

Board Member:



John Connolly

Date: 26/01/2022