



An
Bord
Pleanála

Board Direction
BD-011590-22
ABP-311087-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/12/2022.

The Board decided as follows:

WHEREAS a question has arisen as to whether the use of an industrial building and storage yard within a business park for the processing and temporary storage of construction waste for further re-use, recovery and recycling at Maltings Business Park, Athy, County is or is not development and is or is not exempted development.

AND WHEREAS Gill Skip Hire Limited care of Golder Associates Ireland Limited of Town Centre House, Dublin Road, County Kildare requested a declaration on the said question from Kildare County Council and the Council issued a declaration on the 14th day of July 2021, stating that the matter is development and is not exempted development

AND WHEREAS Gill Skip Hire Limited referred the declaration for review to An Bord Pleanála on the 10th day of August, 2021,

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

- (a) section 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) the definition of 'industrial process' and 'industrial building' as set out in in Article 5 of the Planning and Development Regulations, 2001,

- (c) the stated previous/ historical uses of the site, dating back to prior to the appointed day of 1st October 1964, for the production and storage of malt from barley and the storage of grain and spent grain waste and other ancillary processes and the stated subsequent continued use of the site and buildings for industrial activities,
- (d) Article 6 and Part 4 of Schedule 2 (Exempted development – Classes of Use) and Class 21 or Class 22 (Development for industrial purposes) of Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the processing and temporary storage of construction waste for further re-use, recovery and recycling does not constitute an industrial process as defined in Article 5 of the Planning and Development Regulations, 2001,
- (b) the use of the yard and building as described is for the recovery and transfer of waste and ancillary temporary storage which constitutes a material change of use within the meaning of Section 3 of the Planning and Development Act 2000, as amended,
- (c) the use of the yard and building for the recovery and transfer of waste and ancillary temporary storage does not fall within any class of development prescribed under Article 6 and Part 4 of Schedule 2 (Exempted development – Classes of Use) or within Class 21 or Class 22 (development for industrial purposes) of Part 1, Schedule 2 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(3)(a) of the Planning and Development Act, 2000, hereby decides that the change in the use of the industrial building and yard from use for industrial process or activities to a use for the purposes of processing and temporary storage of construction waste for further re-use, recovery and recycling at Maltings Business Park, Athy, County is development and is not exempted development.

Board Member: Patricia Calleary Date: 19/12/2022
Patricia Calleary

