



An  
Bord  
Pleanála

**Board Direction  
ABP-311192-21**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/03/2023.

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

**WHEREAS** a question has arisen as to whether the stripping back and removal of all of the topsoil and trees on lands to create an extension of 2.75 hectares to an existing quarry and the importation of broken stone from the quarry extension for storage in the existing quarry on lands at Reenagappul, Kenmare, County Kerry is or is not development or is or is not exempted development,

**AND WHEREAS** Martin Arthur of Lime Kiln Lodge, Market Street, Kenmare, County Kerry requested a declaration on the said question from Kerry County Council and no determination was issued by the planning authority,

**AND WHEREAS** the said Martin Arthur referred the question for review to An Bord Pleanála on the 4<sup>th</sup> day of August, 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(3) and 8C of the Planning and Development Regulations 2001, as amended,
- (c) Class 11 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the site, and
- (e) the report of the Inspector.

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

- (a) The removal of topsoil and the importation of broken stone from the quarry extension for storage in an existing quarry constitutes 'works' and 'development' as defined in Section 2 and Section 3, respectively, of the Planning and Development Act 2000, as amended.
- (b) There are no provisions under the Planning and Development Act 2000, as amended, including Section 4, that would afford that the said development be deemed exempted development.
- (c) There are no provisions under the Planning and Development Regulations 2001, as amended, including Articles 6(3) and 8C and Class 11 of Part 3 of Schedule 2, that would afford that the said development be deemed exempted development.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by Section 5(3)(b) of the Planning and Development Act 2000, as amended, hereby decides that the stripping back and removal of all of the topsoil and trees to create an extension of 2.75 hectares to an existing quarry on lands at Reenagappul, Kenmare, County Kerry, and the importation of broken stone from the quarry extension for storage in the existing quarry at Reenagappul, Kenmare, County Kerry is development and is not exempted development.

**Board Member:**

Patricia Calleary  
Patricia Calleary

**Date:** 23/03/2023

